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The Solicitors' Journal

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The Solicitors' Journal

(ESTABLISHED 1857.)

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Current Topics.

Coroners.

THE FACT that they follow a somewhat lugubrious vocation does not prevent the coroners of England and Wales emulating the example of other bodies and periodically dining together. This pleasant function they carried out last week when the legal profession was well represented, and doubtless the coroners took pleasure in recalling that the office which they hold is, as BLACKSTONE says, "a very ancient office at the common law." Rarely does BLACKSTONE indulge in playful humour, but surely there is a touch of this when, referring to the chief duty of the coroner, in inquiring into the cause of unexplained death, he says that the inquest "must be *super visum corporis*; for, if the body be not found, the coroner cannot sit." Curiously enough, this essential to the validity of the inquest, that it should be *super visum corporis*, has sometimes been overlooked and only a few years ago its importance had to be emphasised: see *Rex* v. *Haslewood; Ex parte Margerison*, 70 SOL. J. 906; [1926] 2 K.B. 468. The absence in Scotland of the office of coroner gave rise many years ago to an amusing jibe at a meeting of members of the medical profession. Some one was referring to the distinguished Edinburgh doctor, Sir JAMES SIMPSON, whose name is indissolubly associated with the introduction of chloroform, and saying that it was matter of surprise that a man of his prestige in medical circles was content to remain in Edinburgh when the immensely wider field of London was open to him. Another member present at the gathering quietly remarked that SIMPSON was wise to remain where he was "as there are no coroners' inquests in Scotland!"

Lights on Motor Vehicles.

THE MINISTER of Transport has issued the draft of regulations for lights on motor vehicles, some to be of immediate application and some not to come into effect until October, 1932. A regulation intended to come into force directly it is made modifies the restrictions imposed by s. 4 of the Road Transport Lighting Act, 1927. Not only may headlights be dipped, but they may be deflected to the left, the object being, of course, to enable the margin of the road to be better observed. Spotlights, swivelling to either side and upwards, remain unlawful. Fog lamps hung low, or hung high, with a beam thrown down at a steep angle, are in order, and will remain so even when the anti-dazzle rules presently to be noted come into force. Another rule to be of immediate application prohibits any front lamp having an electric bulb of a power exceeding 36 watts. At present lamps up to 48 watts are used, without any real necessity. To make the regulation completely effective the diameter of the lamps ought also to be prescribed. The anti-dazzle regulations, the coming into operation of which is intended to be postponed till next October, require lamps with acetylene burners or with bulbs of a power exceeding 6 watts, either to be permanently deflected downwards to a degree intended to keep the rays out of the eyes of persons approaching, or to be capable of deflection and to be dipped with the same result. The alternative is undesirable, as it leaves safety action to the initiative of drivers, instead of having automatic safety provision. The permanent deflection, even, is itself hardly sufficient unless correct focussing is secured by a device such as a prefocus cap. The delay in enforcing the anti-dazzle rules is, no doubt, intended to give manufacturers a breathing time to make changes in construction. It may also stimulate the invention of better anti-dazzle devices than have yet come on the market. This is needed as much for side lights as for headlights. The former will be required by the rules to provide for diffusion of light by frosted or obscured glass or other device. Side lamps, even with their feebler illumination, often cause dazzle. Being required merely to indicate the width of the car they need nothing like the range of beam with which they are often equipped. They, too, might be slightly deflected downwards with advantage.

The Driver's Seat.

A LONDON daily reports "what may prove to be a flaw" in the Road Traffic Act. At a provincial police court a summons against a motor cyclist for carrying a passenger otherwise than on the pillion seat was dismissed because the evidence showed that the driver himself was seated on the tank while his passenger was in the saddle. The clerk is reported as saying it was no offence for a driver to sit on the tank provided he had proper control of the machine. When a police officer argued that the Road Traffic Act stated that a pillion passenger must have a fixed seat behind the driver's seat, the clerk replied that in this case the driver's seat was the tank, and the passenger was sitting on the fixed seat behind him. It all turns upon the meaning of the term "driver's seat"; and we confess we should have held differently from the magistrates if the facts are exactly as reported. Section 16 (1) of the Road Traffic Act, 1930, reads: "It shall not be lawful for more than one person in addition to the driver to be carried on any two-wheeled motor-cycle, nor shall it be lawful for any such one person to be so carried otherwise than sitting astride the cycle and on a proper seat securely fixed to the cycle behind the driver's seat." We should take the view that "the driver's seat" means the seat provided for the driver, and not the part of the machine, suitable or unsuitable, upon which he

chooses to sit. The other view is, of course, perfectly tenable; but it seems to us that the interpretation we put upon the sub-section carries out the intention of the Legislature as well as attaching the proper meaning to the words used. If our view be correct, there is no flaw in the section as is suggested.

The Assessors Disagree.

An unusual situation occurred in an Admiralty case a few weeks ago before the Court of Appeal concerning a collision between the German steamship "Bremen" and an oil tanker, the "British Grenadier," as to their respective liabilities for the mishap. The owners of the "Bremen" had appealed from the Admiralty Court, and the Court of Appeal had referred questions of navigation to two naval officers, tried and trustworthy advisers in such matters. Unfortunately, however, on the crucial question of blame, they differed in opinion. The suggestion made in the report of the case, not a legal one, was that, although differences between the technical advisers of one court and those of another are not uncommon, a difference between the two advisers of the same court was practically without precedent. This, however, is not so, for such a difference occurred in the course of hearing of *The Philotaxe* (1878), 37 L.T. 540, before Phillimore, J. The learned judge, who had made up his own mind, nevertheless suggested to the parties that he should call in a third assessor and have the case re-argued before all three. On the ground of expense and delay, however, the parties were unwilling to take this course, and the judge thereupon delivered his own judgment, agreeing with one Trinity Master and disagreeing with the other. In *s.s. Australia* v. *s.s. Nautilus* (1827), A.C. 145, it was laid down that the court is not bound to take the advice of its nautical assessors, but must make up its own mind on questions of nautical skill and seamanship. In this ruling it followed *The Melanie* v. *The San Onofre* (1919), [1927] A.C. 162, when Birkenhead, L.C., observed that it would be intolerable if Admiralty appeals were treated, not as from one judge to others, but from one assessor to another. In the former case Lord Dunedin pointed out that there was not, so to speak, a hierarchy of assessors, so that those consulted by the Court of Appeal were not necessarily to be considered of greater authority than those in the court below. In *Wakeford* v. *Bishop of Lincoln* [1921] 1 A.C. 813, Lord Birkenhead observed that the function of assessors under s. 2 (*c*) of the Clergy Discipline Act, 1892, is anomalous, and more closely analogous either to that occupied by a full member of a court, or a juryman.

Mortgagee's Costs, Charges and Expenses.

The first charge on the net proceeds of sale of property sold by a mortgagee in exercise of his power of sale, after discharge of any prior incumbrances, is in payment of "all costs, charges and expenses properly incurred by him as incident to the sale or attempted resale, or otherwise": Law of Property Act, 1925, s. 105, re-enacting s. 21 (3) of the Conveyancing Act, 1881. The question what are costs properly incident to the sale is not always easy to answer, but the amount of the costs may make a good deal of difference to the value of a second mortgagee's security. In *In re Smith's Mortgage* (W.N., May 2) Eve, J. (who we are glad to see is back again on the Bench, looking as well as ever), had to determine a dispute as to these costs as between first and second mortgagees. The plaintiffs, who were first mortgagees, put up the property, a farm, for sale under their power, and the mortgagor attended the sale and made a bid for the farm which was not accepted by the auctioneer. The farm having been knocked down to the highest bidder, the mortgagor claimed that she had bought it and sued the mortgagees in specific performance, at the same time registering an estate contract. The action was altogether frivolous and was dismissed with costs, the mortgagor having no means either to purchase the property or to pay the costs. Eve, J., held in a reserved judgment that the costs of such an action against the mortgagee did not come within the costs, charges and expense he was entitled to add to his security. They were not incurred in defending the title to the estate for the benefit of all parties interested in the equity of redemption, but in disposing of a baseless claim that he had contracted to sell the property to the mortgagor and refused to complete the contract. It was a mere accident that the claim was made by the mortgagor; any other litigious person would have served as well. The decision follows *Parker* v. *Watkins* (1858), Johns 133, and *Owen* v. *Crouch*, 5 W.R. 545. In the former case Page Wood, V.-C., disallowed costs incurred by the mortgagee in defending his title to the mortgage and the value of his security, saying it was the ordinary case of anyone who had the misfortune to have dealings with a litigious person who was unable to pay costs caused by his conduct. In *Owen* v. *Crouch*, where a mortgagee who went into possession found the property occupied by trespassers planted there by a violent neighbour, he was allowed the costs of an action to eject them, but not the costs of defending an action brought by the neighbour for trespass. The mortgagor was only liable for costs incurred in the just protection of the property. In the present case had the costs claimed been allowed, the second mortgagees would have received next to nothing.

Permanent Maintenance in Divorce.

In *Fitzherbert* v. *Fitzherbert* (*The Times*, 19th March), a wife who had successfully petitioned in divorce appealed against an order of the Divorce Court allotting her permanent maintenance at the rate of £4,500 a year, reducible to £1,000 a year on re-marriage, or £2,000 after the respondent's death. The appeal was made to strike out the reductions only, which, it was urged on the appellant's behalf, were contrary to the practice of the court. It was, however, dismissed. Hanworth, M.R., said that the so-called "one-third rule" was, at best, only a rough guide, and that there were no hard and fast rules in the matter. The jurisdiction to order permanent maintenance arises under s. 190 of the Supreme Court of Judicature Act, 1925, superseding s. 1 of the Matrimonial Causes, 1907, which, in turn, had replaced s. 32 of the original Matrimonial Causes Act of 1857. Under each section, the court had an unfettered discretion, and, in effect, the decision is that that discretion is not to be crystallised by practice and precedent. It may seem curious that, as to another discretion which appears to have been equally unfettered by Parliament on the face of it, namely, that to give or withhold divorce in certain circumstances, the court should hold itself bound by its own self-made rules. This, however, is the effect of *Apted* v. *Apted and Bliss* [1930] P. 246, on which we commented last year: see 74 Sol. J. 346. It may be noted that only the Divorce Court can order a husband to provide for his wife during widowhood, or require him to maintain his children during the whole period of infancy, see *re Thomasset* [1894] P. 295. The present decision should make for elasticity, and the suggestion may even be made that a drastic cutting down of permanent maintenance in the hotel bill divorces, on the ground that the right kind of wife should forgive a single lapse, might make them less popular. Possibly, however, a large number of these couples settle their financial details before the bill is sent. By the old practice alimony was awarded *dum sola et casta vixerit:* see *Fisher* v. *Fisher* (1861), 2 Sw. & Tr. 410, and *Sidney* v. *Sidney* (1865), 4 Sw. and Tr., but later the court was more generous with the husband's money, and the ridiculous notion that the *dum casta* clause was an insult to a pure woman: see *Wood* v. *Wood* (1891), P. 272, at p. 276, has on occasion led to ladies living emancipated lives at their late husband's expense. A decrease of a widow's income from her husband's estate in case of re-marriage is, of course, an exceedingly common provision in an Englishman's will.

Criminal Law and Practice.

COMMITTAL TO "CONVENIENT" ASSIZES.—Mr. Justice Roche, who has more than once criticised the method in which new powers conferred by the Criminal Justice Act, 1925, have been exercised by justices, called attention last week at the Wiltshire Assizes to the rather remarkable fact that out of twelve prisoners for trial no fewer than six came from another county, Hampshire.

The learned judge added, according to a newspaper report, that the Act was excellent in itself, but it was apparently capable of misunderstanding and misapplication. The Act said that justices might send prisoners for trial in another county where the trial would be expedited or expense might be saved; and he hoped the Hampshire magistrates would reserve the power for special cases and not use it as a matter of course.

The incident is a little puzzling, possibly because a brief newspaper report necessarily leaves out much that might explain what was really in the minds of the justices. It cannot be that they acted without any reason, though it seems clear from the learned judge's criticism that they acted without sufficiently good cause.

The section in question (s. 14) permits a committal to assizes or quarter sessions other than those to which committal would ordinarily take place only if it would be more convenient having regard to time and place "with a view either to expediting his trial or saving expense." But even that is not the only limitation, for the section goes on: "Provided that the power given by this subsection shall not be exercised (*a*) unless the examining justices are satisfied at the date of the committal that the next assizes or quarter sessions to which but for this section he might have been committed will not be held within one month from that date."

It therefore appears, as Mr. Justice Roche observed, that the power is to be used for special cases only; the justices must consider convenience and expense having regard to both time and place, and always subject to the definite proviso as to time.

There may, of course, be some explanation which the Hampshire justices may wish to put forward in order to satisfy the learned judge that they acted properly in all the circumstances.

USELESS AND OUGHT TO BE ABOLISHED.—The Ballymena coroner has expressed an opinion reminiscent of the resolution of the Long Parliament anent the House of Lords. He thinks coroners' courts are useless and should be abolished. "It is ridiculous that twelve men should be called upon to find a verdict which neither throws any light on the transaction nor assists the police in investigating the crime." Whatever is true of Ireland, this is untrue of England. In not every case of death is there a homicide, yet to let cases of sudden death go uninvestigated, save when homicide is suspected, is to forego a chance of revealing that offence, and, what is even more important, to remove one deterrent from persons inclined to it. In "Precious Bane," the doctor suspecting the administration of poison to the old mother, remarks to the daughter who might have been responsible for the death that if she is willing to have an inquest there is no need for one. Truly he did not see far enough, but his remark was apt. It used to be said, with truth, that coroners' enquiries very often hampered the police by prematurely revealing information they had obtained, but this objection no longer has the same force now that an inquest is abated when a charge is made, and, as the Reading murder case showed, a coroner's inquest can secure an interrogation of a suspected person such as the police cannot properly undertake.

Mr. P. A. MCELWAINE, a former Crown Counsel in Kenya, who served in that colony from 1923 to 1926, when he was appointed to Fiji, has been transferred to Singapore.

Proceedings Against Negligent Clergymen.

THE case of *Huntley* v. *Bishop of Norwich*, in which the ARCHBISHOP OF CANTERBURY recently sat with TALBOT, J., on appeal from the BISHOP OF NORWICH, is of more than passing moment in view of the fact that the House of Clergy of the Church Assembly some time ago appointed a Committee to enquire into the working of the Benefices (Ecclesiastical Duties) Measure, 1926, under which the BISHOP OF NORWICH proceeded in dealing with the appellant HUNTLEY. The Measure has been the subject of a good deal of criticism ever since its procedure was put into operation in the *Avening (Gloucester) Case* in 1928 (the first under the Measure), and there is little doubt that as a result of the sensational publicity given to the proceedings of that and other Commissions appointed to enquire into allegations of negligence and misbehaviour by country clergymen, the Church Assembly will be moved to reconsider the whole subject.

So far as the *Huntley Case* is concerned, apart from a charge of using language unbefitting his sacred office, the main complaint against the appellant had reference to neglect of his duties. The findings of the Commission were confirmed and the decision of the BISHOP OF NORWICH was upheld. There is, therefore, no ground for any complaint on the score of injustice in this particular case. What is criticised however is the whole tenor of the procedure under the Measure, its appalling costliness, the opportunities it provides for public scandal, and not the least, the grave and serious injustice for which it provides so wide an opening. It needs but little examination to show how well-founded these criticisms are. It is only necessary for village gossip to reach a sufficient degree of scandal for the Bishop to be forced to set up a Commission of seven persons to hold a public enquiry at which every kind of accusation may be mixed up together and be levelled at the unfortunate defendant. The appointment of the Commission depends not upon the question whether the Bishop regards the complaints as serious or frivolous but upon whether they may or may not be true. In the *Avening Case* the Bishop "started the ball rolling," by writing to the accused incumbent in these terms:—

> "I regret to say that there has now been laid before me such evidence of immoral character as to compel me to take action. Whether the evidence will be sufficient to prove adultery or not I do not know, but it is quite conclusive of conduct which would legally be described as immoral and would compel me to take action against you. Under these circumstances I write to ask you whether you are prepared to anticipate any action of mine in resigning the benefice . . . I will give you a fortnight to consider the matter."

The accused clergyman refused to do any such thing. He allowed the Bishop to take the "necessary legal proceedings" threatened and a Commission was set up which sat at Gloucester and for a week or more provided that section of the public press which makes the most of such material with a surfeit of village scandal to the discredit of religion generally and of the Church of England in particular. The Commission found that there was no truth in the allegations of immorality but that "on several occasions between 1921 or thereabouts and 1928" (the last occasion being *two years before the Commission was appointed*) the accused incumbent had "used bad language."

Upon this, the Bishop deprived the accused of his living for two years and mulcted him in costs amounting to £400. The Bishop's own costs (paid out of church funds by the Ecclesiastical Commissioners) amounted in addition to £700! It is astonishing to have to record, in the face of all this, that the Measure itself provides that before a Commission can be appointed at all, the accused may be admonished to mend his ways! But that is not all. It would seem to be possible,

at these Commissions, for an accused clerk to be found guilty of something that was not in the original set of charges. The indictment (if it may be so termed) can be amended during the inquiry with complete disregard for all common law principles and practice; and in the end, the Bishop, who has before him nothing more than a written report of the findings of the Commission—no copy of the evidence nor any indication of the arguments—legal or otherwise—addressed to the Commission, pronounces sentence. Moreover, once a Commission has found against a clerk and that clerk has been suspended and afterwards reinstated when the period of suspension is over, there is nothing in the statute to prevent the Bishop from suspending him again without further trial for some alleged offence that was never in the list of charges dealt with by the Commission which originally condemned him.

It has been suggested that cases of this description should be tried in the Consistory Court by the Diocesan Chancellor who is a trained lawyer, or failing that, by a synod of the accused clerk's fellow-clergy; and that a new and less costly procedure should be set up for appeals. These proposals are likely to be put before the Church Assembly when the question comes up for debate. Certain it is that the costliness of procedure before a Commission must bear very heavily upon any ordinary incumbent who may be called upon to defend himself; whilst the cost of appeals practically deprives any man who is not possessed of substantial private means of the chance of carrying his case further. This ought not to be.

Advocacy.

In his early days many a solicitor tries his hand and buys experience at advocacy. Some go on and make a habit of it.

It is an art—an art worth acquiring; and it is learned by observation and experiment.

Some are masters of the art, and many of its exponents are incredibly bad.

A newspaper article cannot encompass a complete guide to this or any subject, but a few hints may be helpful to those whose experiment is in its early stages.

The natural forum for most beginners is the police court, and although some of these observations are of general application, they are addressed mainly to the advocates of that court.

The advocate's work begins before he enters the court. He must acquaint himself not merely with the name of his client, but with the details of his case and of the evidence in support of it; he must have a settled scheme of how to run the case. That is not to say that he may not have to revise his plan and shape another course later, but it means that he must know, without having to refer to papers, the Act and the section with which he has to deal and that he must have a plan of campaign.

It is necessary to be able to state the essentials of the case without placing and keeping his nose inside a bundle of manuscript. Full dress speeches are not often called for. Often the case for applicant or prosecution can be understood without any or much preliminary explanation, and it is wasting time solemnly to read to the court the proofs on which in a few moments' time it is proposed to examine the witnesses.

If a speech is to be made, let it be limited to stating the essential point, and the witnesses may (or may not) tell the tale presently in its detail.

For every phase and aspect of the case it is desirable that the advocate should first make himself understand what is the material point; then he can concentrate on getting that point before the court without unnecessary rambles over all the surrounding country.

Take for an example an application for an affiliation order.

If the case is to be opened at all, it is enough to give the dates of conception and birth and to state in two sentences what corroboration is to be proved and what are the respondent's circumstances.

The girl will have to tell her story, and it is only tiresome to have it unfolded in every detail once by the advocate and again by the witness. Furthermore, if the witness fails to come up to her proof, as already recited, the case is not strengthened by the discrepancy.

Speeches for the defence may be more expansive, but it is worth remembering that what may be said and repeated usefully to a jury perhaps contains matter superfluous to be addressed to a professional magistrate.

Before he starts, the defending advocate must be sure whether the case may or must be tried summarily or on indictment; if he has an election to make he will have decided on the course of action.

If it is a summary case, he ought to know what he can or must do after the decision in order to challenge it on law or fact, if it is against him.

He must weigh beforehand the merits of pleading guilty and addressing the court in mitigation or struggling for an acquittal.

And he must be very sure that his client's character will bear talking about before he makes it a topic of conversation. Clients whose instructions are taken perfunctorily sometimes have to disclose to the court a record which was not mentioned in their instructions.

The solicitor's sole concern ought to be the interest of the client who has retained him, and it is not good for the case if the advocate "shows off." An irrelevant speech, pyrotechnical cross-examination, a row with the court, or an argument on a legal point that does not exist are not always even good advertisements, but if the effect of the display is to convict the client, even the advertisement would be expensive.

Remember when examining witnesses to stick to what is relevant and to avoid "leading" on contentious matter. Rules of evidence were of course made to be observed, but until they are all mastered, one is worth making sure of. It should never be forgotten that *the best evidence* only is allowed. This principle covers and explains the twin troubles that come to birth in every case in every court, first as to "hearsay" and second as to verbal statements about written documents.

A few decided cases occur to mind, which the police court advocate must know. Others may be turned up as occasion requires, but these must be absorbed into the system, so that by instinct he understands and applies their principles without having to read up the cases or cite them from reports.

These are they: *Lillyman* and *Osborne, Makin* v. *Attorney-General of N.S.W.; Abramovitch*, and the *Russell Case*. The reports are accessible and "Archbold" and "Stone" are full of them.

When cross-examining the advocate should remember that no question may be put without an object.

Don't cross-examine for the sake of talking. Don't cross-examine a harmless witness till he hurts you.

Surely the worst question ever put to a witness was that of a prisoner to the policeman who had proved finding him on enclosed premises at cock-crow. That was the first meeting of two men till then unacquainted. The prisoner had tried to interrupt the policeman's evidence and was at last told by the court that the time had come when he could ask a question if he wished.

He did. It was irrelevant. It was obscene. It contained two questions in one and a *petitio principii*. It reflected upon the chastity of the policeman's mother and cast an unwarranted imputation upon the policeman's origin. It made the witness hostile and it served no purpose.

A few general observations in conclusion.

There is no need to be rude to anybody, and it never pays. It is a mistake to condemn people as a class. For example, if necessary and if justified, an advocate may and should criticise specific policemen, only making sure that it is necessary and justifiable so to do. But obviously only harm will come from inviting the court to believe that all policemen are liars.

And lastly let the advocate deserve and preserve the confidence of his court. A suggestion that he is tricky, or not quite straight, or does not keep his word, will put an end to his usefulness in that and other courts within knowledge of his habits.

Estate Agent and Solicitor.

ESTATE agents do not as a general rule find themselves at loggerheads with solicitors, but it is well to realise that their respective fields of activity occasionally overlap or, at the very least, that "thin partitions do their bounds divide." It is in the best interests of the public, however, that their work should be kept as distinct as possible, and The Law Society quite rightly take prompt action against any member of any other profession apparently usurping the function of a solicitor. On Thursday, 4th June, at Marylebone Police Court, Mr. BINGLEY fined an estate agent £5 and ordered him to pay £5 5s. costs on a summons by The Law Society under s. 44 of the Stamp Act, 1891, for drawing up a document purporting to be a lease from February, 1930, until December, 1934, of a flat in St. John's Wood. The document was in terms not a lease but an agreement for a lease. It ended with the words "signed, sealed and delivered," and was drawn up by the defendant's firm for a fee. The document was not in fact sealed, nor was there any evidence that there had been a seal. The section on which the summons was framed provides (*inter alia*) that "every person who (not being a barrister, or a duly certificated solicitor, law agent, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity) either directly or indirectly, for or in expectation of any fee, gain, or reward, draws or prepares any instrument relating to real or personal estate . . . shall incur a fine of fifty pounds. (2) The expression instrument in this section does not include . . . (b) an agreement under hand only." It was ingeniously contended on behalf of the defendant that the document was an agreement under hand only, and *Re Smith ; Oswell* v. *Shepherd* (1892), 67 L.T. 64, was cited, in which it was held that a properly stamped bond, which stated in the attestation clause that it was "signed, sealed and delivered" by the obligor, but on which no seal had actually ever been affixed, was not an instrument under seal. Lord Justice BOWEN in that case said : "It will not do to look at the paper and say 'I deliver this as my act and deed.' There must be some sort of mark to denote the seal." Mr. BINGLEY, however, decided that the document was an instrument relating to real or personal estate and was not an agreement under hand only, and imposed a fine as stated above. In view of the fact that the section was enacted for the protection of the public as well as for the security of the Revenue (see *Taylor* v. *The Crowland Gas and Coke Co.* (1854), 10 Exch. 293), no criticism can be levelled at The Law Society for taking proceedings even in doubtful cases. But the legal aspect of the decision under consideration is not entirely immune from criticism. A lease for more than three years must be by deed in order to be valid as a lease (Law of Property Act, 1925, s. 52), but if it is merely in writing under hand, it nevertheless operates in equity as an agreement to grant a lease : *Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9 ; 31 W.R. 109. The sole question, therefore, was whether the document under consideration was an instrument under seal or an agreement under hand, and the statement of the learned magistrate that such a doubtful document ought never to have been given and that the lessee might have had to fight the case up to the House of Lords is quite irrelevant. The only case which seems to lend colour to the learned magistrate's decision is *Re Sandilands*, L.R. 6, C.P. 411, in which a deed which was sent out to Melbourne for execution had pieces of green ribbon attached where the seals should be. The attestation clause stated that it had been "signed, sealed and delivered," and one of the attesting witnesses was the MAYOR OF MELBOURNE. The court held that there was evidence that it had been properly sealed. This decision, however, was subsequently doubted in *Re Smith ; Oswell* v. *Shepherd* (*supra*), while in *National Provincial Bank of England* v. *Jackson*, 33 Ch. D. 1, 4, no less an authority than Lord Justice LINDLEY characterised it as "a good-natured decision, in which I am not sure that I could have concurred." The case is one of considerable interest to both solicitors and estate agents, and the opinion of a higher tribunal might usefully be sought.

Company Law and Practice.

LXXXI.

WINDING-UP PETITIONS.

II.

WHEN the petition is prepared it must be presented at the chambers of the registrar, who appoints the time and place at which the petition is to be heard (Companies (Winding-Up) Rules, 1929, r. 26). The petition must then be advertised seven clear days before the hearing in the manner provided by the rules : see r. 27 and Form 6 in the Appendix to the Rules ; it is not my intention at this stage to deal with the advertisement of the petition and matters arising thereout, though later on in this series I hope to be in a position to do so. The rules also require that the petition, unless presented by the company, must be served upon the company (r. 28). This rule contains elaborate provisions with regard to service, and Forms 7 and 8 in the Appendix give forms of affidavits of service of the petition, the latter one being a form for proving service on a liquidator, who, in a voluntary winding up, must be served as well as the company.

It not infrequently happens that, after a petition has been presented, the debt in respect of which the petition has been put on the file is paid to the creditor. The procedure to be followed must then depend on whether or not the petition has been advertised. If it has not, there are two courses open to the petitioning creditor—in the absence, of course, of any agreement with the company as to what is to be done with regard to the petition—he may either do nothing, or he may apply in chambers for the withdrawal of his petition ; he cannot withdraw his petition without leave.

In the former case, the petition will be automatically removed from the file under r. 27, which provides that, unless duly advertised within the prescribed time, or such extended time as the registrar allows, the appointment of the time and place at which the petition is to be heard are to be cancelled, and the petition removed from the file, unless the judge or the registrar otherwise directs. There seems to be no reason why this course should not be adopted, as it avoids the necessity of making any further application in the winding-up department.

But it does not necessarily follow that, because a petitioner is intending to allow his petition to be removed in this way, it will be so removed, because r. 36 provides for the substitution of other persons as petitioners. This rule, so far as material for our present purpose, provides that where a petitioner (*a*) fails to advertise his petition in the prescribed time, or such extended time as the registrar allows, or (*b*) consents to withdraw his petition, the court may substitute as petitioner any creditor or contributory who, in the opinion of the court, would have a right to present a petition, and who is desirous of prosecuting

the petition. The rule also prescribes that an order to substitute a petitioner may, where a petitioner fails to advertise his petition within the time prescribed by the rules, or consents to withdraw his petition, be made in chambers at any time.

From the purely practical point of view, it would seem that, before a petition is advertised, whether the petitioner merely leaves it alone with the intention that removal from the file shall follow automatically under r. 27, or whether he goes to chambers to get leave to withdraw it, it is not very likely that a substitution order will be made, because the persons who are aware of the presentation of the petition must, in the majority of cases, before advertisement, be small.

But once the petition has been advertised, the position is materially altered. The petitioner can, it is true, give instructions that he is not to be represented at the hearing of the petition, but in such case the petition would be dismissed at the hearing with costs against the petitioner, and these costs would include not only the costs of the company, but also the costs of the creditors and contributories who appear on the petition; though, as far as these latter are concerned, only one set of costs is, as a rule, to be provided for. It will be remembered that where a petition is actually decided by the court, the usual practice is to give, in addition to the costs to that one of the main protagonists who is successful (i.e., the petitioner where a winding-up order is made, and the company where the petition is dismissed), one set of costs to those who supported the winning side. In a case where the petition is dismissed through the non-appearance of the petitioner it is, of course, impossible to say whether those who intended to support, or those who intended to oppose, the petition would have won, but it is usual to give only one set of costs to creditors and contributories though it is a matter for the discretion of the court (see *Re Peckham Tramways Co.*, 57 L.J., Ch. 462; *Re Criterion Gold Mining Co.*, 41 Ch. D. 146).

It follows from this that a petitioner who receives an offer for the payment of his debt after advertisement will be wise to safeguard himself by getting payment of his own costs of the petition, and also an indemnity against the costs of such other persons as appear on the petition.

The company will not necessarily be out of the wood even if it adopts the course of paying the debt and making provision with regard to the petitioner's costs, because under r. 36 any creditor or contributory who, in the opinion of the court, would have a right to present a petition, may be substituted as petitioner where the petitioner fails to appear in support of his petition when it is called on in court. It is usual for the petitioner to be represented at the hearing, even when his debt has been paid, and his costs provided for, though if the petition is to be dismissed with costs against the petitioner, there seems no real reason why he should be represented.

(*To be continued.*)

A Conveyancer's Diary.

Mortgages of Reversions—Incidence of Estate Duty.

In a letter which was published in our issue last week, Mr. H. Arnold Woolley challenges the correctness of the view which I expressed on this subject in my diary of the 23rd May. In another column this week there is a letter from Mr. J. C. Bryson, who also disagrees with me, and I have had some letters addressed to me personally, which are much on the same lines.

To take Mr. Woolley's letter first. He says that he has searched in vain for any precedent for a covenant by a mortgagor of a reversionary interest to pay the death duties which may be payable upon the interest falling into possession. It is not a matter of much importance whether the precedent books do or do not provide a form of such a covenant, but I refer Mr. Woolley to "Prideaux," 22nd ed., vol. II, Form IX, cl. 4, p. 242, which is included by reference in following forms.

Mr. Woolley then goes on to say that he does not think "that s. 14 (1) of the F.A., 1894, was intended to apply to a mortgage, but to appointed parts of a trust fund, and annuities and so forth charged on trust funds."

I agree with Mr. Woolley in thinking that the sub-section in question was not intended to apply to a mortgage, but I am not sure that the remaining part of the sentence which I have quoted expresses the presumed intention of the legislature. I am, however, only concerned with the first part of the sentence, with which, as I have said, I entirely concur. What was intended and what was done are, however, two quite different things, and surely we are all by this time accustomed to finding that a section of a statute is found to apply in a manner which we are convinced (and sometimes which we, in fact, know) was not in the contemplation of the draftsman.

Mr. Woolley then says that if s. 14 (1) does apply to an ordinary mortgage then, even in the absence of words in the mortgage, the mortgagor is "clearly bound to recoup his mortgagee," and he adds that the payment of the duty would, "looked at in one light, amount to one for preserving the security."

I do not know on what ground Mr. Woolley bases his opinion that the mortgagor would be liable to recoup the mortgagee who had paid the duty. There is nothing in the Act providing for it, and, if the mortgage deed fails to do so, I know of no right of action which the mortgagee would have.

The suggestion that payment of the duty would be a payment for preserving the security is ingenious, but I am afraid that I cannot see where the preservation comes in. If I am right the mortgagee is bound by Act of Parliament to contribute a proportion of the duty when he has been paid and upon the amount which he has then paid. The security has gone when his contribution becomes payable. Moreover, the payment is not a voluntary one but is imposed by the statute. The mortgagee does not pay because he wishes to preserve his security, but because the statute says that he shall.

Mr. Woolley's next point is that the provisions in the F.A., 1894, repeated in subsequent Acts, protecting the mortgagee from having to pay a higher rate of duty than that in force at the date of the mortgage (which I suggested showed that a mortgagee might be called upon to pay the duty) only apply where the security is insufficient to pay the mortgage debt and duty at the higher rate. If he is right, what construction is to be put upon the words at the end of s. 21 (3) of the F.A., 1894, "and in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee"?

Mr. Woolley proceeds to deal with a question with which I am not immediately concerned, namely, the incidence of duty where a reversioner has sold a "slice" of his reversion in which case, he says, the Inland Revenue claim the whole duty from the reversioner and none from the purchaser of the "slice." I am not offering any opinion upon that. There appears, however, so far as I know, to be no special provision in the Finance Acts throwing part of the duty upon the purchaser of the "slice."

Turning to the letter of Mr. Bryson, I think that he makes a good point when he says that an ordinary mortgage of a reversionary interest is an absolute assignment, and it is a point which had occurred to me before I wrote the opinion upon which my "Diary" of the 23rd May was based. I cannot, however, bring myself to think that an ordinary mortgage does not create a charge, and if that be so, s. 14 (1) applies. It is certain that, although in terms an absolute assignment, the mortgagee does not acquire the right to have the whole property or fund conveyed or paid to him (*Re Bell; Jeffery* v. *Sayles* [1896] 1 Ch. 1; *Hockey* v. *Western* [1898] 1 Ch. 350). In effect the mortgagee has a charge only. That

being so it seems to me inevitably to follow that s. 14 (1) of the F.A., applies.

Mr. Bryson continues to assert that the mortgagor remains liable upon his covenant to pay the whole mortgage debt and interest without any deduction. That is the contention advanced not only by him but by other correspondents who appear to think it conclusive.

Well, let us see. A, by his will, gives a sum of £10,000 to his trustees, B and C, upon trust to pay the income derived therefrom to D during his life, and subject thereto to E, who mortgages his reversionary interest in the usual form of an absolute assignment with a proviso for redemption. On the death of D, estate duty becomes payable. The personal representatives of D are accountable parties, although the securities representing the settled legacy do not vest in them as such. The trustees B and C are also accountable, and, as a matter of practice, it is generally B and C who in fact pass the account and pay the duty. It is, however, quite immaterial whether the duty is paid by the personal representatives of D or by B and C, for in either case the persons paying the duty are entitled to recover it from the persons who under the Finance Acts are required to pay or contribute to the payment of it.

If B and C pay the duty they can deduct it in rateable proportions from what they pay to the mortgagee and to E respectively, and that, as I suggest, is what they ought to do.

If in fact the duty were paid by the personal representatives of D, the life tenant, who had not the funds in hand, the position would be still more obvious. They could not obtain payment by deduction, but would have to pay the duty first and recover it afterwards, as to part from the mortgagee and as to the balance from E.

Then it is said that even if that be so the mortgagee could under the usual covenant recover from the mortgagor whatever he (the mortgagee) had been required to pay. I cannot see why. The mortgagee would in fact have been paid in full and the covenant by the mortgagor completely performed. After the mortgagee had received everything to which he was entitled under the covenant, the statute steps in and levies upon him an imposition which he must pay. Why should the mortgagor repay him? How would Mr. Bryson indorse his writ?

Finally, I think that there is authority for the view which I have expressed. In *Alexander's Will Trustees* v. *Alexander's Settlement Trustees* [1910] S.C. 637, a father charged certain estates with payment of a sum of money to the trustees of his son's marriage contract, payment being postponed until after the father's death. It was held that the trustees must contribute a rateable proportion of the estate duty payable upon the father's estate. I do not think that there is any distinction in principle between that case and the case of an ordinary mortgage.

Registration of Restrictive Covenants.

The Editor has sent me a copy of some correspondence arising out of an article under the head of "Practice Notes," appearing in our issue for the 28th March. The contributor of that article raised an interesting point as to the necessity of re-registration of covenants upon a change of ownership of the land affected, and some correspondents think that he went too far in suggesting that without such re-registration in the name of a new owner the charge would become ineffective. It is, of course, the fact that searches are made in the name of the estate owner, and after a length of time the name of the owner at the date of registration would not appear in an abstract delivered upon a sale by a later owner. That is certainly very inconvenient and does raise a doubt whether it was not intended that there should be re-registration as the learned contributor of the article in question suggests. No provision seems to be made for it, however, and without any express enactment I do not think that re-registration could be said to be required by implication.

Landlord and Tenant Notebook.

The Effect of Surrender.

Cases illustrating the doctrine of surrender by operation of law are more numerous than those dealing with the effect of surrender, express or otherwise; the reason presumably being that the ultimate question in the former case is one of inference, so that examples multiply as circumstances vary. The effect of a surrender, however, is a matter worthy of study, particularly as, until comparatively recent times, certain decisions were *prima facie* difficult to reconcile.

Conflicting views were held as to whether a surrender necessarily completely wiped out old scores or not. A case reported by Coke, *Walker's Case* (1597), 3 Co. Rep. 22A, seemed to support the proposition that remedies for past wrongs were not extinguished by a surrender, for the judgment contains the following: ". . . yet the lessor shall have an action of debt for the arrearages due before the surrender made." But nowadays old authorities are not necessarily treated with respect on account of their age; and the passage cited refers only to rent and says nothing about covenant. And in giving judgment in *Ex p. Allen; re Fussell* (1882), 20 Ch. D. 341, C.A., which concerned disclaimer by a trustee in bankruptcy, Cotton, L.J., certainly used (at p. 348) language suggesting that the law was such that any surrender released the parties from their covenants: a surrender involved a giving back to the lessor of the entirety of the property, with a corresponding release of the tenant from the covenants. It was not until the present century that the doubt thus engendered was resolved by the Court of Appeal in two cases, each of which concerned dilapidations.

Dalton v. *Pickard* [1926] 2 K.B. 545, C.A. arose, in 1911, out of an arbitration under the Agricultural Holdings Act. The tenant had agreed, verbally and in writing, to give up the farm by a certain date, partly in consideration of fair valuation and allowance. A letter from the landlord had confirmed this arrangement. But when it was carried out, the landlord claimed in respect of dilapidations. It was argued on behalf of the tenant that the agreement said nothing as to dilapidations, but the Court of Appeal pointed out that a valuation was definitely anticipated, that in matters agricultural there were always two sides to a valuation, and applied the doctrine contained in *Walker's Case*.

Then in *Richmond* v. *Savill* [1926] 2 K.B. 530, C.A., the judgment of the court below in favour of the defendant, the executor of a lessee, who had negotiated a surrender, stressed the comprehensive wording of the passage in *Ex p. Allen; re Fussell*, already referred to. The action was a claim for breaches of repairing covenants committed by the deceased tenant. But while there was nothing to show that any such claim had been anticipated, expressly or by implication, the facts were that the executors, being anxious to get rid of the lease, had proposed either to sub-let or to surrender, and it was apparent that with these alternatives in mind the landlord had agreed, "if the executor agreed to pay rent up till 25th March next, and the tenant gave up possession not later than the end of February, *to release* him." The expression italicised was, as can be seen, the very expression used by Cotton, L.J., in *Ex p. Allen*; but on analysing that case the Court of Appeal held that the judgment did not distinguish between past and future, as it might have it the facts had been otherwise, and that as dilapidations had not been referred to the estate was liable: a release must be limited to what is contemplated at the time. This authority is, perhaps, a little more decisive than *Dalton* v. *Pickard*; for in that case it was observed that there was a circumstance, namely, the valuation, from which an assessment of dilapidations might or ought to have been considered part of the bargain; now, the whole basis of the decision was the absence, not only of references to, but also of anything that might suggest, the abandonment of the particular rights. The conclusion is, that border-line cases are likely to arise.

No mention was made in the above case of *Brown* v. *Blake* (1912), 47 L.J. 495, in which damages were recovered from a landlord for failure to fit up premises for the tenant's business. They had agreed to a "surrender," but the judgment calls it "rescission," possibly on the assumption that there never was a tenancy.

Another effect of surrender was discussed in the rather peculiar case of *Plummer and John* v. *David* [1920] 1 K.B. 326. The claim was for possession, rent and mesne profits. One of the plaintiffs was a former mesne tenant of the premises, who had let to the defendant and given him the notice to quit. He had then surrendered to the superior landlord, who had let to the other plaintiff. The idea was, no doubt, to avoid the consequences of assignment. The tenant refused to give up possession to the new mesne tenant, to whom he had never paid rent. But it was held that the effect of the surrender and of the Real Property Act, 1845, was to transfer the rights to the new mesne tenant; also, that as regards rent, he could rely on the Landlord and Tenant Act, 1730, s. 6.

Our County Court Letter.

INTERPRETATION OF CATTLE INSURANCE CONTRACTS.

Pitfalls with regard to the above were revealed in the recent case of *Green* v. *Pyke* at Wallingford County Court in reference to the Brightwell Pig Club. A rule provided that "No member is entitled to any benefit until he is insured for seven days, and no person is entitled to full benefit until he has been a member three months." The plaintiff joined early in August, 1930, but on the 28th September his pig died, and (as its value was £4) the amount of full benefit would be £3 5s. This amount could not be claimed, however, as the plaintiff had not been a member for three months, but he claimed that a just proportion was two-thirds, viz., £2. The plaintiff had asked the committee to view his pig when it was ill, and he admitted writing for a compassionate allowance, but he pointed out that, as a former member, he could have retained his membership by paying a penny a month, even while he owned no pigs. The defence admitted the last circumstance, but it was contended that even old members (who paid their penny a month) were not entitled to benefit in less than seven days from rejoining at the full subscription, and a new member could not claim for three months. His Honour Judge Randolph, K.C., observed that the latter reference was to full benefit, which implied that even a new member was entitled to some benefit after seven days, but the rules were silent as to the amount. The court was unable to order a "whip-round" (which had been the method of dealing with such emergencies in the past), and judgment was therefore given for the plaintiff for £1. It transpired that the club (of which the defendant was chairman) had refused to settle by refunding the plaintiff's contributions, and they were advised by the learned county court judge to clarify their rules for their own protection, in view of the possibility of larger claims in the future.

PARENTS' LIABILITY FOR INFANTS' TORTS.

In *Andrews* v. *Balls*, recently heard at Diss County Court, the plaintiff (a boy aged ten years) had been injured in the ankle by a gun fired by the defendant's son, aged twelve years. The plaintiff's case was that the two boys had been playing together, when the defendant's son (without being asked to do so by the plaintiff) had fetched a No. 3 shot gun from the house, and, after inserting a cartridge, had pulled the trigger. The plaintiff denied that the gun went off accidentally, or that he had ever said it was his own fault, and a witness was called as to the defendant's son having been seen in possession of the gun, but not actually shooting. It was submitted that there was no case to answer, as the plaintiff had failed to prove either that the defendant gave permission for his son to use the gun, or that the defendant, after warning his son, had negligently permitted him to handle the gun. The case was ordered to proceed—subject to an amendment that the defendant negligently allowed the gun to be kept within reach of his son. The evidence of the defendant's son was that the gun had been bought by his mother to scare birds, and, although forbidden to use it, he had fetched the gun at the request of the plaintiff (who wished to see how it was loaded) and the shot had been fired accidentally. His Honour Judge Herbert Smith held that the gun was never bought for the defendant's son, who was told not to use it in his mother's absence or in the presence of the plaintiff. The latter had been anxious, however, to have a demonstration, and the gun was therefore fetched from the passage behind the door—this being a reasonable place in which to keep the weapon. The defendant had endeavoured to prevent his son using the gun, and, in the absence of negligence, judgment was therefore given in his favour, with costs. A contrary result had been reached in two cases discussed in a "County Court Letter" under the above title in our issue of the 20th July, 1929 (73 Sol. J. 479), notably *Bebee* v. *Sales* (1916), 32 T.L.R. 413, which is the only reported decision on the subject. It transpired in the first-named case, *supra*, that the Firearms Act, 1920, s. 12, contains a proviso that a smooth bore shot-gun shall not be deemed to be a firearm, whereas a gun with a rifled barrel (however small) would require a permit from the chief constable. There being no restriction on the sale of cartridges containing bullets, the anomalous result is that no check exists on the holding of ammunition and guns of smooth bore, however large.

Practice Notes.

GROWING CROPS AS SECURITY.

The position of the mortgagee, as against the ordinary creditors, was considered in the recent case of *Halmshaw* v. *Hare and Another*, at Brigg County Court. The plaintiff had lent £100 to the defendant, upon the security of the latter's crops, and repayment was taken first in goods and finally in a quantity of barley, but this exceeded the balance due, and the plaintiff therefore paid another £20. A deficiency of 17 quarters was then discovered, and the defendant accordingly promised to make this up at the next threshing, but in the meantime he executed a deed of assignment (of which the second defendant was trustee) and further deliveries were withheld. The plaintiff contended that, as the contract for barley was prior to the deed of assignment, his goods had been appropriated by the trustee, who was sued for their return and for £15 17s. 6d., being damages for breach of contract. The defence was that the plaintiff was neither a preferential nor a secured creditor, and, although he had paid for goods he had not received, he was no worse off than other creditors, who had supplied goods for which they had not been paid. His Honour Judge Langman held, that there was no evidence that the specific barley sold to the plaintiff had been taken over by the trustee, and the claim therefore failed against him, even though he was willing to admit a claim by the plaintiff as an ordinary creditor. The plaintiff was entitled to succeed, however, against the debtor (the first defendant) against whom judgment was given, with costs, although this would only be recoverable out of the balance remaining on the winding up of the estate.

Mr. Vincent Hamilton Jackson, solicitor, Hanley, Staffs, a former Deputy Registrar of Hanley, and for more than fifty years a member of the "Ancient Corporation of Hanley," left estate of the gross value of £14,220, with net personalty £9,761.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Doctor's Arrears of Rent.

Q. 2222. A and B, in 1928, signed an agreement for the sale by A to B of A's practice of a medical practitioner. The agreement contained a clause to the effect that A would grant to B a lease of the premises in which the practice had previously been carried on by A, and that the lease should contain "all usual covenants." B has, since 1928, been occupying the premises at the rent mentioned in the agreement. A lease, however, has never been executed. The rent, however, is now well over six months in arrear, and the question arises whether proceedings can be taken under s. 139 of the County Courts Act, 1888. Is the presence in an agreement for a lease of a clause stating that the lease shall contain all usual covenants (it has been ascertained from Redman's book of "The Law of Landlord and Tenant" that "Usual covenants" includes a right of re-entry of non-payment of rent), sufficient right of re-entry to comply with s. 139? Redman, again, says that the landlord's power to re-enter must be "by virtue of some condition or proviso contained in the lease or agreement, whether by deed, in writing, or by oral agreement, express or implied." Having regard even to this, however, it seems difficult to decide whether the agreement of 1928 gives A a sufficient right of re-entry to comply with the section in question.

A. The difficulty in the above case is not so much on the point raised in the question, since a doubt exists as to whether there is any jurisdiction in the county court to entertain the matter. The power of re-entry for non-payment of rent was held to be "usual" in *Hodgkinson* v. *Crowe* (1875), L. R. 10 Ch. 622, and *In re Anderton* (1890), 45 Ch. D. 476, and on this point A could comply with s. 138. That section further requires, however, that no sufficient distress could be found, whereas it is probable that (taking into account B's drugs and medical instruments) A could satisfy his claim by distraining. Moreover, A can only recover possession in reliance upon the doctrine in *Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9, which decided that a tenant under a contract for a lease holds upon the same terms as if the case had been granted, provided that the agreement was one in respect of which a decree for specific performance could have been made. On the latter point, it was held in *Foster* v. *Reeves* [1892] 2 Q.B. 255, that a county court judge cannot deal with a claim for rent under an agreement if it relates to premises exceeding £500 in value, since he would have no jurisdiction to grant specific performance of such an agreement. As the subject matter of the present question is a doctor's house, the value doubtless exceeds £500, in which case proceedings cannot be taken in the county court.

Co-Owners — Undivided Shares — Sale by Surviving Trustee who during the Currency of her Trust has Become Beneficially Entitled to the Entirety.

Q. 2223. In 1930 freehold property was conveyed to A and B, husband and wife, in fee simple, and in the conveyance was included a declaration that the purchasers should stand possessed of the property upon trust for sale, and should stand possessed of the proceeds of sale in trust for the purchasers in equal shares as tenants in common. A has since died intestate, leaving no estate save the share in the beforementioned property (well under £1,000 in value) and no representation has been taken out. B wishes to sell.

(1) Can B sell as absolute owner under s. 36 of the L.P.A., 1925, as amended by the Act of 1926?

(2) If so, for what evidence as to B's being solely and beneficially interested is a purchaser entitled to call?

A. (1) We are of the opinion that B can sell under s. 36 of the L.P.A. 1925 as amended by the L.P. (Amend.) A., 1926, Schedule. She certainly is a survivor of joint tenants (at law only, it is true) who is solely and beneficially interested.

(2) The purchaser would probably require, and in our opinion would be entitled to demand, (*a*) the production of a grant in the estate of A, which would presumably be taken out by B; (*b*) to be supplied with the date and place of the marriage of A and B, so that he could if he desired obtain a certificate; (*c*) evidence of the payment of all debts and of the funeral and testamentary expenses, which would involve the insertion of the usual statutory notice to creditors; and (*d*) evidence of the payment of estate duty.

If B did not obtain the grant in the estate of A some evidence of assent would also be required.

With regard to the estate duty, it seems a little doubtful whether the purchaser would have the protection of the L.P.A., 1925, s. 17 (1).

In view of the foregoing remarks, it would probably be less expensive to make title by way of the trust for sale, although this would involve the appointment of an additional trustee.

Survivor of Tenants in Common—Mortgage of the Entirety by.

Q. 2224. Properties were conveyed to A and B before 1926 in fee simple as tenants in common in equal shares. A died in 1927 having by his will appointed B and X trustees, and giving the residue of his estate (including his interest in the said properties) to B and X upon trust for sale and the proceeds upon trust for X for life, and on her death upon trust for his children in equal shares. The will contained a power for the trustees to raise money by mortgage of any properties for *inter alia* the purpose of re-arranging or otherwise dealing with existing mortgages on any part of the estate, including any undivided share or shares. Then follows the usual declaration that a mortgagee should not be concerned to see that the money be wanted, etc. B and X proved the will, but X is now dead.

It is now desired to raise money by way of legal mortgage on the properties for discharging an overdraft to the bank to secure which A and B mortgaged the properties. Can B alone give this mortgage, or what document will be necessary to enable a legal mortgage of the property to be made. The children of A are all willing to concur, and it is desired that they should do so. What lines will the mortgage take, and is there any precedent fitting the case?

A. On the 1st January, 1926, the properties became vested in A and B upon the statutory trusts, and B is now the survivor of such trustees (L.P.A., 1925, Sched. I, Pt. IV, para. 1 (2)). The special power contained in the will of A for the raising of money by way of mortgage is not directly in point, as this power can only relate to the equitable interest late of A. If the money is not to be raised for one of the purposes authorised by L.P.A., 1925, s. 28, though S.L.A., 1925, s. 71 (1) (i) seems to cover the case, the money can certainly properly be raised at the request and with the concurrence of all those beneficially interested in the proceeds of the trust for

sale. It will be necessary to appoint an additional trustee to act with B to give a valid discharge for the loan (L.P.A., 1925, s. 27 (2), as amended by L.P.(Amend.)A., 1926, Sched.).

We regret that we cannot quote a precedent exactly in point. We suggest that the trustees should mortgage at the express request of B and the children of A, and that the money be paid to the trustees at the like express request. There would in the normal case be no covenant for the payment of principal and interest.

Trustees Carrying on Business of Deceased—Retirement of One.

Q. 2225. A.B. made his will and died in 1929. He appointed his wife and two friends executors and trustees of his will, and he gave to them his real and personal estate (subject to the provisions thereinafter contained relating to his business) upon trust for sale and conversion and to pay the income to his wife for life, etc. The will authorised the executors and trustees to carry on the deceased's business and gave them the usual powers without being answerable for any loss arising thereby. The will was proved by all the three executors and all debts, etc., of the estate have been paid and the executors have continued to carry on the business, but one of them wishes now to retire. How can his wishes be carried out?

A. Obviously the executors are carrying on the business as trustees; they could not do so as executors. One can retire from the trust in the ordinary way, as if there were no trust for carrying on the business, but he should get an indemnity against existing debts from the others and should advertise his retirement and give notice to creditors and others in the same way as in the case of change in an ordinary partnership. If the other two do not agree, the alternative is to go to the court.

Estate Agents' Commission.

Q. 2226. A instructs an estate agent B to sell freehold property and business, and a contract is entered into with C at a price of £1,600. A few days afterwards C commits suicide (verdict "temporary insanity") and his estate is proved by his widow at about £800 net personalty. Proceedings for specific performance were commenced against the widow, but counsel advises that the best course is for A to re-sell and claim damages. A has, therefore, requested B to pay over the deposit in B's hands, but B demands payment of his commission on the sale. It is suggested that as B has not found a purchaser "able and willing to complete" he is not entitled to his commission as it is believed that there is a recent decision upon the point. Is this contention correct and can reference be given to authorities?

A. A recent decision is *Martin* v. *E. W. Perry and Daw* (75 Sol. J. 259), in which the contract entitled the defendants to commission "upon a sale being effected." It was held that this phrase was equivalent to "if the business is sold" and that the right to commission was contingent upon completion taking place. It will therefore be necessary to ascertain the precise terms of the contract in the present case, as B may only be required to find a purchaser "able and willing to complete" at the time the contract is signed. The exact period from the date of the contract to C's suicide should also be ascertained, as, if C was already insane when he signed the contract, he was not such a "purchaser" as would entitle B to commission. On the other hand, C did pay a deposit, and, if the insanity was produced by some supervening cause (financial or otherwise), B's claim to commission would not be defeated, as he did not undertake to insure A against accidents to C. The discrepancy between the contract price and the amount at which C's estate was proved is no evidence that he was unable to complete, as his death may have caused a sudden diminution in the value of his assets. Compare the cases noted under the above title in the "County Court Letter" in our issue of 2nd May, 1931 (75 Sol. J. 290).

In Lighter Vein.

The Week's Anniversary.

On the 19th June, 1683, Sir Edmund Saunders, C.J., died of hard work and unaccustomed temperance. His origins were of the most humble, but while he was still a lad his intelligence and diligence attracted the notice of the attornies of Clement's Inn. At that time he could not even write, but having found his way into the legal world he pushed his abilities so capably that he was finally admitted to the Middle Temple and called to the Bar. Twenty years elapsed between this event and his promotion to the Bench, and, meanwhile, he gained a great reputation both for his practice and his reports. Fat and offensive in body and intemperate in his habits, he was nevertheless well known for his honesty, his good nature and his wit. His advancement to preside in the King's Bench was the death of him, for, besides the anxiety and the heavy work involved, the sudden change to a more sober and restrained mode of life was more than his constitution could bear. His health broke down and in six months he died of apoplexy.

Dress Problems.

The discovery in Northern Siberia of that lost tribe whose chief judge is a woman has perhaps partly compensated the sex for the unfriendly criticism lately levelled at the lady who is a magistrate in New York. For comfort less remote, they have Judge Turner's recent suggestion that women barristers might usefully sit with him as assessors in cases when the fit of a dress is in question. Few judges, however learned, can feel themselves capable of adjudicating unaided upon the ever-changing mysteries of the appropriate draperies of the female form. Even when the sober and securely stabilised garments of the male are in question, the court is ready to welcome assistance. Such was the case when Sir Edwin Landseer was sued by an eminent firm of West End tailors for the price of a coat which, the great painter declared, "violated every artistic principle." The jury was very common indeed, and included a little dealer in ready-made clothes from Whitechapel, who at the suggestion of the defendant's counsel was required by the judge to examine the garment when Sir Edwin put it on. This he did with a serious and critical air and then, holding up his hands, exclaimed, "Oh, it is poshitively shocking, my lord; I should have been ashamed to turn out shuch a thing from my establishment." The plaintiff's fury was not abated when the final verdict went against him.

The Lesser Jury.

The utility of juries has recently been a subject of discussion in an evening paper. It is perplexing to find so often in the minds of laymen a prejudice against the palladium of British liberty, while its defence is left to the lawyers. The late Mr. Justice Alpers, of New Zealand, for example, had a very firm confidence in this institution—the full jury of twelve that is, and not the shrunk and depleted group of four men which in the Dominion tries cases involving £500 or less. Four was, he thought, too few to provide "the average common sense of the citizen." The only stupid jury he ever knew was one of this type and from them he won an unmerited verdict against a plaintiff who alleged that his jaw had been wrongfully broken by a police baton during certain disturbances. Alpers' case was that the plaintiff had simply fallen headlong, sustaining the injury by the impact with the surface of the road. The expert on the other side refuted this by saying that in such a case there would have been signs of "gravel rash." In his address to the jury Alpers said "You gentlemen know Stafford Street as well as I do and evidently a great deal better than the doctor does. I ask you, did any of you ever see gravel in Stafford-street?" Incredible as it seems, he got his verdict.

Correspondence.

Summary Justice.

Sir,—It would appear from your correspondence columns that the article under the above heading has evoked considerable disapproval and very little approval. I write this letter in an endeavour to support your contributor in much that he says, my only regret being that there are passages in his article which have tended to alienate the sympathies of many solicitors towards the reforms which he has in view.

If reform is to be achieved we must concentrate upon the central problem, and that is undoubtedly the lay magistrate. To put the unfortunate magistrate's clerk in the pillory is to "draw a red herring across the trail." The clerk is quite frequently a practising advocate, well acquainted with the devious paths of falsehood and truth and of the shortcomings of his own particular bench. But he is only the clerk, and although in exceptional cases he can bring considerable influence to bear so as to prevent a miscarriage of justice, he cannot, having regard to his position as clerk, arrogate to himself functions which he does not possess. Little do the public realise the efforts which a good clerk may have to make in order to keep the bench on the right lines.

As to the lay magistrate, examples of magisterial errors could be given *ad nauseam*, but two must suffice for the present: (*a*) "A man is presumed innocent until proved to be guilty." This fundamental maxim of English criminal law was quoted by an advocate during the course of his address to the bench. The chairman, a magistrate of some twenty or thirty years' standing, high-minded, generous and anxious to do justice, remarked: "That may be so as a matter of law Mr. ——, but the fact that this prosecution has been brought by Mr. —— (the prosecutor) raises in our minds, as a matter of fact, a presumption of guilt." The prosecutor was the head gamekeeper to a large estate and was not a witness in the case. (*b*) In another case the chairman turned upon an independent witness who was giving evidence for the defence which directly contradicted that of a local police constable. "Do you mean to tell me that the police constable has come here to tell lies?" inquired the chairman, but before the witness could answer, the advocate, who had suffered much at the hands of the bench, interposed and addressing the chairman said, with the utmost deliberation: "Do you mean to suggest, sir, that my witness has come here to tell lies?" A remark which rendered the chairman practically speechless.

To my mind Mr. Brodie Vaughan (75 Sol. J., at page 276), makes, at least, a practical suggestion for reform when he suggests that the clerk should occupy a seat on the bench beside the chairman. This may not commend itself to your contributor, but it would at least constitute a step in the right direction, and would prevent the bench from riding rough-shod over the clerk on questions of law.

Probably the ideal arrangement would be a stipendiary magistrate, on circuit, sitting as chairman with lay magistrates who would decide the facts of the case subject to the direction of the chairman on points of law. The specialised knowledge of the chairman would be available for their guidance in the weighing and testing of evidence.

If the problem is to be dealt with at all, it will require the efforts and goodwill of the legal profession as a whole, and magistrates' clerks must not be reproached for a system for which they are not responsible. Amateur justice is cheap justice. Professional justice, though it will prove more expensive, will do much to remove a source of growing irritation to the public and to re-establish confidence in those courts of summary jurisdiction which do not possess a stipendiary or a chairman of outstanding legal ability.

Finally, it must be conceded that most of the lay magistrates undertake their office from a high sense of public duty. It is not the men which are at fault, but the system which calls upon them to perform functions which require the equipment of a highly trained and specialised knowledge. If we are to have men on the bench, let us have those whose whole life has been bound up in the mental turmoil of the courts and who have emerged from its austerities with a mind tempered like the finest steel. To exercise judgment over one's fellow men is surely to exercise one of the most exalted offices. This is a task which should not be lightly undertaken.

8th June. William Penn.

Re Mortgages of Reversions—Incidence of Estate Duty.

Sir,—I have been much interested in the point dealt with by the writer of "A Conveyancer's Diary" in The Solicitors' Journal of the 23rd May, 1931, under the above heading. I am, however, wholly unconvinced that a mortgage of a reversionary interest is a "charge on property" within the meaning of s. 14 (1) of the Finance Act, 1894. None of the cases quoted deal with mortgages, and, I submit, do not prove the contention of the writer.

A mortgage of a reversionary interest is, in fact, an assignment in equity of the whole of the mortgagor's interest in the fund. The fund naturally on the death of the tenant for life bears the estate duty attributable to it, and no question of charge can arise. In one sense the mortgagee bears the whole duty as he is not entitled to receive payment except after deduction of the whole duty, but surely there can be no question of apportioning a rateable part of the duty in respect of the mortgage debt as suggested by your learned contributor. Could it be suggested, for example, that where the whole of the trust fund, worth, say, £1,000, was a portion only of the security and mortgaged with other property to secure a principal sum of, say, £10,000, that the mortgage money bore any relation whatever to the trust fund?

Again, the assignment of the fund is a security only for the debt due to the mortgagee. Unless the Statutes of Limitation have intervened, the mortgagor will still be liable on his covenant for such portion of the debt as the amount realised from the trust fund is insufficient to cover, and the mortgagee will not be liable to bear any portion of the estate duty. I therefore submit that there is no reason for inserting in the mortgage of a reversion the words suggested by Mr. Withers.

I see no objection to the suggestion of the learned editor of Hanson's "Estate Duties" that in a mortgage of a reversionary interest a covenant should be inserted by the mortgagor to pay *all* duties (not limited to estate duties) which may be payable in respect of the fund. One reason for such a covenant is that if the mortgagee should be called upon to pay the estate duty personally he could immediately sue the mortgagor for the amount without waiting to see whether the fund would be sufficient to cover principal, interest and costs payable under the mortgage.

Liverpool. J. C. Bryson.
1st June.

Licences to Assign. Landlords' Costs.

Sir,—I have read with interest the correspondence on this subject prompted by your contributor's remarks in your issue of the 25th April last, and as another solicitor of over forty years' experience for both landlords and tenants cannot agree with all your contributor's comments. The transaction of which the original contributor speaks seems rather unusual, for it is the landlord rather than the tenant who generally takes up the references of the new tenant offered to him and gives the consent. Now it is undoubtedly a well-established practice for the tenant to pay his landlord's solicitor's reasonable costs (if one is employed) but a guinea or even double that sum may often be inadequate, as, for example, in the event of the landlord putting upon his solicitor the responsibility of taking up the tenant's references or otherwise

making inquiries as to the assignee's or sub-lessee's respectability and responsibility. Questions of the position of the premises or their use often arise, especially in the case of the tenancy being of part of a structure such as offices or flats. The lease may, indeed, contain provisions safeguarding the landlord from breaches, but, obviously, the landlord's solicitor's duty is to "prevent" rather than to "cure," and prevention is generally a far cheaper course. I have, indeed, come across so few cases where the landlord's solicitor has "charged excessively" for his services that one can ignore such an imputation on the profession. I cannot agree that "there is little reason for inserting the usual covenant" against subletting or assignment without licence. It is a fair warning to tenants who usually know as little of the law governing such matters as they do in other cases. It is my common experience to find that lessees seldom know the contents of their leases; moreover the Law of Property Act, 1925, itself (see s. 144) recognises the practice already referred to. A further practice has indeed been growing up lately, so I find, for the landlord's licence to contain an agreement by the sub-lessee or assignee directly with the landlord, especially of high-class property, to observe the conditions of the licence, including, of course, the performance of the lessees' covenants and conditions, with the added provision that in case of breach the landlord may withdraw the licence. This requires the licence or a duplicate to be signed by the sub-lessee or assignee, but how far any such licence could be *effectively* withdrawn afterwards is questionable. At least it adds a further warning to the new tenant to carry out his duties as such, and so may be useful *ex abundanti cautela*.

ANOTHER LANDLORDS' AND TENANTS' SOLICITOR.

College Hill, E.C.4.
5th June.

Reviews.

International Adjudications, Ancient and Modern. History and Documents, together with Mediatorial Reports, Advisory Opinions, and the Decisions of Domestic Commissions, on International Claims. Edited by JOHN BASSETT MOORE. Modern Series, Vols. 1 and 2. New York. Oxford University Press. 25s. each.

When Mr. John Bassett Moore resigned his membership of the Permanent Court of International Justice, to which he had been elected by a League of Nations to which his country does not belong, he explained his giving up of his great office by the need of giving definite and continuous personal attention to the publication of the series of which these volumes are the first.

The object of this voluminous collection is to furnish an intelligible and fully documented report of all decisions of international questions not recorded in the ordinary law reports. With the documents of each case is to be combined its history. The work will include all the matter contained in Mr. Moore's great "History and Digest of International Arbitration," published in 1898.

The modern series begins with an arbitration by a mixed commission under the Jay Treaty of 1794. That, behind their political differences and quarrels, English and Americans had mutual trust and respect is shown by the fact that the two American and English Commissioners were able to agree on another American as the third.

The St. Croix River Arbitration marks the beginning of an epoch, in which many major issues were indeed to be decided by war, but in which many potential causes of war were gently and unostentatiously removed from the scene of action by judicial settlement. To the general reader this particular instance is not perhaps of great interest, though it contains a great deal that throws light on the settlement of the American Colonies and Canada. To the international lawyer it is one of the cases he should read and keep for reference.

Enormous pains have been taken to render the report contained in these volumes accurate. The copy of the evidence in the Department of State was one hastily made and full of errors. It has been carefully compared, so far as possible, with original documents, the rest of the text having only such revision as common sense dictated. It is safe to assert that it will be accepted as the most authentic version possible, and used and quoted as such.

Mr. Moore has commenced a great and valuable contribution to international law. We hope he will live to bring it to completion.

Books Received.

A Compendium of Mercantile Law. JOHN WILLIAM SMITH, Barrister-at-Law. 1931. Thirteenth Edition. By H. G. GUTTERIDGE, M.A., LL.D., K.C., assisted by H. GOITEIN, LL.D., and H. J. S. JENKINS, M.A., B.Ch., Barristers-at-Law. Royal 8vo. pp. ccxxvii and (with Index) 888. London: Stevens & Sons, Ltd., and Sweet & Maxwell, Ltd. £2 2s. net.

The Law of Running-down Cases. EDWARD TERRELL, Barrister-at-Law. 1931. Demy 8vo. pp. 254 and (Index) 14. London: Butterworth & Co. (Publishers) Ltd. 15s. net.

The Acts Relating to Estate, Legacy and Succession Duties. By the late ALFRED HANSON, Barrister-at-Law, Comptroller of Legacy and Succession Duties. 1931. Eighth edition. By FRANCIS H. L. ERRINGTON, M.A., Barrister-at-Law. Royal 8vo. pp. vii and (with Index) 663. London: Sweet and Maxwell, Ltd. £1 15s. net.

Constitutional Law. An outline of the Law and Practice of the Constitution, including English Local Government, the constitution of the British Empire and the Church of England. By E. C. S. WADE, M.A., LL.M., Barrister-at-Law, and G. GODFREY PHILLIPS, M.A., LL.B., Barrister-at-Law. 1931. Medium 8vo. pp. xxii and (with Index) 476. London: Longmans, Green & Co. 21s. net.

The Burlington Magazine (Illustrated). No. CCCXXXVIII. Vol. lviii. May, 1931. The Burlington Magazine, Ltd., 16A, St. James's-street, S.W.1. 2s. 6d. net.

Home Office Criminal Statistics (England and Wales), relating to Crime, Criminal Proceedings, and Coroners' Investigations for the year. 1929. Cmd. 3853. 1931. H.M. Stationery Office. 3s. 6d. net.

Report of the Fifty-third Annual Meeting of the American Bar Association, held at Chicago, Illinois, 20th, 21st and 22nd August, 1930. Baltimore: The Lord Baltimore Press.

An Introduction to British Constitutional Law. By ARTHUR BERRIEDALE KEITH, D.C.L., D.Litt., Barrister-at-Law. Crown 8vo. pp. xii and (with Index) 243. Oxford: At the Clarendon Press. 7s. 6d. net.

Notable British Trials. Trial of Dr. Smethurst. LEONARD A. PARRY, 1931. Demy 8vo. pp. xiii and 259. Edinburgh: Wm. Hodge & Co. 10s. 6d. net.

"Some and Sundry." By The Hon. GILBERT COLERIDGE. "A delightful chronicle of an uneventful life." 1931. Large crown 8vo. pp. (with Index) 276. London: Constable and Co., Ltd. 9s. net.

Workmen's Compensation and Insurance Reports. Edited by G. WHITFIELD HAYES, Barrister-at-Law. 1931. Part I. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. Edinburgh: W. Green & Son, Ltd. Annual subscription £2 (post free).

Ministry of Health Reports on Public and Medical Subjects. No. 63. Memorandum on Bovine Tuberculosis in Man with Special Reference to Injection by Milk. 25 pp. 1931, H.M. Stationery Office. 6d. net.

Notes of Cases.

Judicial Committee of the Privy Council.

S. P. A. Annamalay Chetty *v.* **B. A. Thornhill.**

The Lord Chancellor, Lord Blanesburgh, Lord Darling and Lord Thankerton. 19th May.

PRACTICE AND PROCEDURE—DECREE IN ACTION—APPEAL PENDING—SECOND ACTION ON SAME CLAIM INSTITUTED—NOT *res judicata*.

Appeal from a decree of the Supreme Court of Ceylon, dated the 13th March, 1928.

On the 19th June, 1924, the appellant, S. P. A. Annamalay Chetty, instituted against the respondent, B. A. Thornhill, an action, No. 4122, to recover a balance alleged to be due upon a running account. The suit was instituted in the appellant's business name, which, however, was not in fact registered in accordance with the requirements of the Ceylon Business Names Registration Ordinance, No. 6 of 1918. In the District Court the judge gave judgment for the appellant subject to his complying with the Ordinance within fourteen days. Against that decision the present respondent appealed to the Supreme Court of Ceylon. The present appellant, then faced with the possibility that if the respondent's appeal succeeded any further proceedings might be barred by limitation, instituted a second suit, No. 4687, against the same respondent and in respect of the same subject-matter. To that action the respondent pleaded "that the action No. 4122 of this court and the decree . . . are a bar to this action." The District Judge upheld that plea and dismissed the second action, No. 4687. From that decision the present appellant appealed to the Supreme Court of Ceylon. In the result, the Supreme Court allowed the present respondent's appeal in respect of action No. 4122 and dismissed the present appellant's appeal in action No. 4687. It was against the last decision that the appellant now appealed.

Lord THANKERTON, giving the judgment of the Board, referred to s. 207 of the Ceylon Civil Procedure Code, which provides that: "All decrees passed by the Court shall, subject to appeal, when an appeal is allowed, be final between the parties; and no plaintiff shall be non-suited," and said that under that provision no decree from which an appeal lies and has in fact been taken is final between the parties while the appeal is pending so as to form *res judicata* between the same parties. In the result, action No. 4687 would be remitted to the District Court to proceed as accords.

COUNSEL: *Leslie de Gruyther*, K.C., and *J. M. Parikh* for the appellant; *H. I. P. Hallett* for the respondent.

SOLICITORS: *Stephenson, Harwood & Tatham; O. A. Cayley.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Taylor; Taylor** *v.* **Taylor.**

Eve, J. 15th May.

WILL—GIFT TO NAMED PERSONS—ONE SHARE SETTLED—PREDECEASE—LAPSE—INTESTACY AS TO A SHARE.

Mrs. Ellen Gertrude Taylor died on the 24th October, 1929. By her will she gave her real and personal estate to a trustee in trust for conversion, directing him to "stand possessed of the net residue thereof upon trust to pay and divide the same unto and equally between the four children of my late husband." The will further directed that the share to which Amy Taylor, one of these, "shall become entitled" should be held upon trust to apply the income for her maintenance or benefit during her life and after her death the share settled upon her was to be equally divided between the three other beneficiaries. Amy Taylor and one of her brothers predeceased the testatrix. The share of the latter lapsed and was undisposed of. The question here arose on the share of the former.

EVE, J., in giving judgment, said that the question was whether the case fell within *Stewart* v. *Jones*, 3 De G. & J. 532, or the line of cases of which *In re Pinhorne* [1894] 2 Ch. 276 was the leading example. The will contained a gift of a quarter share to Amy, but as she did not live to take anything and the direction to settle affected the share to which she "shall become entitled," there was nothing on which the settlement could operate. A legatee who predeceased the testatrix never had anything but a *spes successionis*. This case was covered by *Stewart* v. *Jones*. The direction to settle was only super-added to the gift. The intestacy consequent on the predecease of the beneficiaries extended to Amy's share as well as to that about which there is no dispute.

COUNSEL: *Wilfrid Hunt; A. Guest Mathews* (*B. G. Burnett-Hall* with him); *J. H. Boraston.*

SOLICITORS: *Sharpe, Pritchard & Co.*, for *Ryland, Martineau and Co.*, Birmingham; *Vizard, Oldham, Crowder & Cash*, for *Owston & Co.*, Leicester.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Everett and Another *v.* **Shand and Others.**

Lord Hewart, C.J., Avory and Humphreys, JJ. 29th April.

GAMING—BETTING ON TOTALISATOR—GREYHOUND RACING—"GAME OF CHANCE"—VAGRANT ACT AMENDMENT ACT, 1873 (36 & 37 Vict., c. 38), s. 3.

Case stated from the decision of the Deputy Stipendiary Magistrate, Liverpool.

Two informations were preferred by the Chief Constable and the Assistant Chief Constable of Liverpool, under s. 3 of the Vagrant Act Amendment Act, 1873, against James Shand, the secretary and managing director of Electric Hare Greyhound Racing, Ltd., the occupiers of the Stanley Greyhound Racing Track, and about thirty clerks employed by the company. The first information charged the defendants with betting at the Stanley track, a place to which the public were permitted to have access, with an instrument of gaming, namely, a hand totalisator, at a game of chance, or pretended game of chance, namely, a dog race. The second information charged them with aiding and abetting Electric Hare Greyhound Racing, Ltd., or other persons unknown, to play, or bet, by way of wagering and gaming, in an open place at or with a table or instrument of gaming, namely, a totalisator, at a game of chance, namely, a dog race. All the money subscribed by the public on any race was returned to those members of the public who had secured tickets bearing the number of the winning dog, divided to the nearest threepence, less 5 per cent. for expenses. The Deputy Stipendiary Magistrate held that, having regard to the decision in *Attorney-General* v. *Luncheon and Sports Club, Ltd.*, 72 SOL. J. 795; [1929] A.C. 400, no betting had taken place on the premises, and, therefore, no offence had been committed by any of the respondents. He dismissed the informations. The Chief Constable and the Assistant Chief Constable now appealed against the dismissal of the second information only.

Lord HEWART, C.J., said that he thought that the view of the Deputy Stipendiary Magistrate was wrong, and that it was clear that betting had taken place on the premises. The question, however, for the court was whether the magistrate was right in coming to the conclusion that the informations ought to be dismissed. Stress was no longer laid on the first information. The decision on the second information was remitted to the words of the Statute itself. The essence of s. 3 of the Vagrant Act Amendment Act, 1873, was that there should be "wagering or gaming at any game or pretended game of chance." Before a court could find that there had been wagering or gaming within the meaning of that section

it was necessary to find that there had been a game or pretended game of chance, and, although the wagering or gaming, considered by itself, might amount to a game of chance, that was not enough. There must have been a game or pretended game of chance at which the wagering or gaming had taken place. His view was, therefore, that, although the reason given by the magistrate could not be supported, the conclusion at which he arrived was, nevertheless, correct. The appeal would be dismissed.

AVORY and HUMPHREYS, JJ., delivered judgments to the same effect.

COUNSEL: *J. E. Singleton*, K.C., and *R. C. Essenhigh*, for the appellants; *Sir John Simon*, K.C., and *Wilfrid Clothier*, for the respondents.

SOLICITORS: *F. Venn & Co.*, for the Town Clerk, Liverpool; *N. E. Stockdale*, Liverpool.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division

Turk *v.* Turk; Dufty *v.* Dufty.

Lord Merrivale, P. 20th and 21st April; 12th May.

DIVORCE—REDUCTION OF MAINTENANCE—IMPROVEMENT OF WIFE'S MEANS—EFFECT OF WORDS "UNTIL FURTHER ORDER"—STATUTORY DISCRETION TO REVIEW—JUDICATURE (CONSOLIDATION) ACT, 1925, 15 & 16 Geo. 5, c. 49, ss. 190 and 196.

In pursuance of the direction of the President, dated 2nd February, 1931, these two petitions for reduction of permanent maintenance were referred to the court on the registrar's reports as being petitions to reduce on a ground other than inability of the husband to pay. In both cases the petitioners relied upon improvement of the wife's financial position, and in both the order to pay was expressed to be "until further order." Counsel addressed full arguments to the court, mainly directed to the question as to whether the court had jurisdiction to entertain applications for reduction on the ground of subsequent increase of a wife's means.

Lord MERRIVALE, P., in the course of delivering considered judgments in both cases, said that the matters of maintenance for a wife and its reviewal came within the statutory discretion of the court. These matters were not standardised by the rules applying in cases of judicial separation in the matter of alimony. The jurisdiction was now embodied in the Judicature (Consolidation) Act, 1925, s. 190, and if an order for maintenance was expressly limited "until further order" the court, in reviewing it, should regard all the present circumstances of the parties as if existing at the date of the original order. It might consider not only the descending income of the husband, but also the ascending scale of that of the wife: *vide Hall* v. *Hall* [1915], P. 105. Even in the absence of the limitation above referred to, relevant facts as to the fortune of the wife would have weight if occasion arose for the court to exercise its discretionary power of review under s. 190 (2) by reason of the inability of the husband to pay, though he (his Lordship) was not prepared to agree that this would be so without inability of the husband being shown. The court's power to review orders for maintenance was not derived from any intention of s. 196 of the Judicature (Consolidation) Act. That section, having regard to its terminology, was limited in its operation to suits for restitution of conjugal rights. The Act was a consolidating not an amending one.

COUNSEL: *W. O. Willis*, K.C. (with him *Hon. Victor Russell*), for the wife; *Bayford*, K.C. (with him *H. B. Durley Grazebrook*), for the husband.

SOLICITORS: *J. J. Edwards & Co.* for the wife; *Berrymans* for the husband, in *Turk* v. *Turk*.

COUNSEL: *Norman Birkett*, K.C. (with him *J. Neal*), for the husband; *Leslie Marks* for the wife.

SOLICITORS: *Jackson & Jackson* for the husband; *Gibson and Weldon* for *J. H. Gunnell & Spiro*, Birmingham, for the wife, in *Dufty* v. *Dufty*.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Parliamentary News.

Progress of Bills.

House of Lords.

*Agricultural Land (Utilisation).
Read Third Time. [21st May.
*Ancient Monuments [H.L.].
Royal Assent. [12th June.
Architects (Registration).
Read Third Time. [21st May.
Housing (Rural Workers) Amendment.
Passed through Committee. [12th June.
Local Authorities (Publicity).
Royal Assent. [12th June.
Local Government Clerks [H.L.].
Amendments considered. [10th June.
London Squares Preservation.
Read Third Time. [7th May.
Marriage (Prohibited Degrees of Relationship).
Read First Time. [6th May.
Merchant Shipping (Safety and Load Line Convention).
Read Second Time. [9th June.
Mining Industry (Welfare Fund).
Read Second Time. [10th June.
*Pharmacy and Poisons [H.L.].
Read Third Time. [30th April.
Public Offices (Sites) Amendment.
Commons Resolutions agreed to. [30th April.
Representation of the People (No. 2).
Read First Time. [5th May.
Salvation Army.
Read First Time. [20th May.
Sentence of Death (Expectant Mothers).
Read First Time. [5th June.
Small Landholders and Agricultural Holdings (Scotland).
Committee. [12th May.
*Widows, Orphans and Old Age Contributory Pensions.
Royal Assent. [12th June.
Wills and Intestacies.
Joint Committee. [20th May.
Workmen's Compensation.
Royal Assent. [12th June.

House of Commons.

Access to Mountains.
Read First Time. [12th May.
Adoption of Children (Scotland).
Read Second Time. [8th June.
*Agricultural Land (Utilisation).
Reported with Amendments. [7th May.
*Agricultural Marketing.
Committee. [19th May.
*Ancient Monuments [H.L.].
Read Third Time. [30th April.
Architects (Registration).
Read Third Time. [17th April.
Criminal Justice (Amendment).
Read First Time. [28th April.
Employment Returns.
Read Second Time. [17th April.
Fancy Jewellery (Standard Trade Descriptions).
Read First Time. [19th May.
*Finance.
Read Second Time. [20th May.
Fire Brigade Pensions.
Read First Time. [19th May.
*Housing (Rural Workers) Amendment.
Read Third Time. [21st May.
Hospital Lotteries.
Rejected on First Reading. [19th May.
Leasehold Enfranchisement.
Motion for Second Reading. [1st May.
Local Authorities (Publicity).
Read Third Time. [12th May.
London Passenger Transport.
Joint Committee. [10th June.
Marriage (Prohibited Degrees of Relationship).
Read Third Time. [1st May.
Mining Industry (Welfare Fund).
Read Third Time. [12th May.
National Industrial Council.
Second Reading deferred. [30th April.
Palestine and East African Loans.
As Amended, Considered. [15th May.
Petroleum.
Read First Time. [22nd April.

* Government Bill.

Probation of Offenders (Scotland). Read Third Time.	[5th June.
Proprietary Medicines. Read First Time.	[11th May.
Registration and Regulation of Osteopathy. Withdrawn.	[12th May.
Religious Persecutions (Abolition). Read First Time.	[19th May.
*Representation of the People (No. 2). Read Third Time.	[2nd June.
Rural Amenities. Withdrawn.	[14th April.
Shops (Sunday Trading Restriction). Read First Time.	[29th March.
Summary Jurisdiction (Appeals). Read Second Time.	[24th April.
*Sunday Performances (Regulation). Read Second Time.	[20th April.
Third Parties (Rights against Insurers). Read First Time.	[6th May.
*Town and Country Planning. In Committee.	[21st May.
Vaccination. Read First Time.	[29th March.
*Widows, Orphans, and Old Age Contributory Pensions. Read Third Time.	[30th April.
Wireless Telegraphy (Bedridden Persons). Read Second Time.	[5th June.
Workmen's Compensation. Read Third Time.	[24th April.
Works Council. Second Reading deferred.	[30th April.
Sentence of Death (Expectant Mothers). Read Third Time.	[2nd June.
Sharing Out Clubs (Regulation). Read Second Time.	[24th April.

* Government Bill.

House of Commons.

Questions to Ministers

FACTORIES BILL.

Replying to Sir KINGSLEY WOOD, Mr. CLYNES said the Government have been anxious to proceed with the Factories Bill during the present Session if it seemed practicable, having regard to other commitments, to carry it through all its stages. I am afraid that in view of the legislation to which Parliament is already committed and the present state of business, a postponement of this Bill for the present Session appears now to be inevitable.

CRIME INVESTIGATION.

Mr. LOVAT-FRASER asked the Home Secretary if he will consider the desirability of creating a national detective department whose duty it shall be to investigate immediately crimes taking place in any part of the Kingdom which require special ability and experience.

Mr. SHORT: My right hon. Friend is still of the opinion that there is no sufficient ground for considering a radical change of this kind.

RAILWAYS (ELECTRIFICATION).

Mr. SMITHERS asked the Prime Minister what is the policy of the Government on the matter of granting State assistance in respect of the electrification of the railways.

THE PRIME MINISTER: The problems, both technical and economic, raised by the recent report of Lord Weir's Committee require the consideration of the railway companies in the first instance. Meanwhile it would be premature for the Government to attempt to define its policy in the matter.

PATENT MEDICINES.

Mr. HAYDN JONES asked the Minister of Health whether he proposes to introduce legislation to give effect to the recommendations of the Select Committee on Patent Medicines, whose report was issued in 1914.

Miss LAWRENCE: My right hon. Friend fears that owing to the present state of business, the Government are unable to undertake to introduce legislation on this subject during the present Session.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to give directions for the appointment of Mr. WILFRED MURRAY WIGLEY (Crown Attorney and Magistrate) to be an Official Member of the Legislative Council of the Presidency of St. Christopher and Nevis; and of Mr. WILLIAM BRUCE MORTIMER DE GRASSE to be an Unofficial Member of the said Legislative Council.

The Incorporated Council of Law Reporting have appointed Mr. T. M. CHITTY THOMAS, O.B.E., M.C., Barrister-at-Law, to be Assistant Secretary of the Council.

The Right Honourable LORD BLANESBURGH (Lord of Appeal) has been elected Prime Warden of the Goldsmiths Company.

The following new Scottish K.C.'s are announced, viz.:—Mr. ALBERT RUSSELL, Mr. JAMES STEVENSON, Mr. JOHN ADAM LILLIE and Mr. ROBERT GIBSON.

Mr. STEPHEN FRANK KING, M.A., Assistant Solicitor in the department of the Town Clerk of Bath (Mr. J. Basil Ogden, M.A., LL.B.), has been appointed an Assistant Solicitor in the department of the Clerk to the West Riding County Council (Mr. J. Charles McGrath).

Mr. GEORGE FREDERICK THOMPSON, M.A. (Oxon) has been appointed Legal Assistant in the office of the Town Clerk of the County Borough of West Ham (Mr. Charles E. Cranfield).

Mr. HERBERT B. WILLETT, B.A., Solicitor, Burwash (Sussex) has been elected Chairman of the Ticehurst Rural District Council.

At a special sitting of the Jersey Royal Court on Thursday, the 4th inst., Mr. CHARLES WALTER DURET AUBIN, one of the advocates of the court, was sworn in as Solicitor-General in place of Mr. Alexander Moncrieff Coutanche, who has been appointed Attorney-General.

Professional Announcements.

(2s. per line.)

Mr. R. TEASDALE and Mr. A. E. HEWITT, practising at 6, Lendal, York, in the firm name of Smithson, Teasdale and Hewitt, have taken into partnership Mr. RONALD B. HOLDEN as from 6th April, 1931. The firm name remains unchanged.

CONFIRMATION IN TEMPLE CHURCH.

After seven centuries the first confirmation service to be conducted in the Temple Church took place on Thursday evening in last week, when seven of the choir boys, prepared by the Rev. S. C. Carpenter, Master of the Temple, were confirmed by Bishop Hill, formerly Bishop of Hulme. At the end of the ceremony the Bishop addressed the boys.

HIS MAJESTY'S JUDGES AT ST. PAUL'S.

The Lord Chancellor and others of His Majesty's judges were present in state at the afternoon service at St. Paul's Cathedral on Sunday last. They were received by the Lord Mayor, Aldermen, Sheriffs and members of the Common Council, who also attended in state, and with whom they had seats in the choir. The judges and members of the Corporation, in accordance with traditional custom, carried bouquets of flowers. Canon J. K. Mozley, in his sermon, said that as so often in past years they welcomed those who represented to them the majesty of the nation's law and the good ordering of the City of London. The annals of our country's history would be far less rich and noble than they were if they omitted from them all that told of the growth of law and of its developing power for the better ordering and control of the national life. And so far from law having been the enemy of liberty in the centuries of their progress, it was within the framework of a deepening reverence for law that liberty had found its widest scope. For in the life of the nation it was law, and law alone, which could keep liberty from degenerating into licence.

IRISH JURIES BILL.

Dail Eireann, says *The Times*, passed the second stage of the Juries (Protection) Bill by sixty-six votes to forty-three. The Minister for Justice said that the purpose of the Bill was to extend the operation of the Act of 1929 for a further two years. The Government, he added, held that the necessity for its continuance survived, since persons who desired to upset the existing order of things by force of arms were not yet entirely quiescent. Majority verdicts, he hoped, would become part of the permanent system of the country. The Fianna Fail Party opposed the measure on the ground that it was unnecessary and coercive.

ROMAN CATHOLIC TESTAMENT FOR THE COURTS OF JUSTICE.

A Roman Catholic Testament has, says *The Daily Telegraph*, been presented to the Royal Courts of Justice by Councillor W. P. Mara, of Westcliff-on-Sea, for the use of witnesses who object to using the Authorised Version.

PROSECUTION BY THE LAW SOCIETY.

Charles Fowler Clark, of Pemberton and Clark, surveyors, auctioneers and estate agents, of Wellington-road, St. John's Wood, was at Marylebone, on Thursday, 4th June, fined £5, with £5 5s. cost, for, as an unqualified person, drawing up for fee an instrument relating to real or personal estate. The proceedings were instituted by The Law Society.

Mr. Roland Burrows, for the Society, said that the document related to a lease of a flat in Acacia-road, St. John's Wood. It was drawn up by the defendant's firm for a fee and concluded, "signed, sealed and delivered." Counsel submitted that this made it a bond under seal.

Mr. Lawrence Tooth, defending, contended that the document was simply an agreement "under hand" and not a bond, because it bore no seal.

The magistrate said that such a doubtful document ought never to have been given and was not an agreement under hand only. The lessee might have had to fight the case up to the House of Lords.

REDEMPTION OF TITHE.

The Minister of Agriculture and Fisheries announces that, for the purpose of the redemption of tithe rent-charge, for which application is made after 31st May, 1931, until further notice, the compensation for redemption will be twenty-three times the net amount of the tithe rent-charge after the deductions prescribed by the Tithe Acts, 1918 to 1925, have been made.

A LIGHT ASSIZE AT LIVERPOOL.

Commenting on the fact that there were only twelve names in the crime calendar at the Liverpool Summer Assizes last Wednesday, says *The Times*, Mr. Justice Macnaghten said that he doubted whether there had ever been a smaller number at a summer assize. He hoped that the diminution in the number of indictable offences indicated not only raising the standard of living, but also raising the standard of life among people in this country.

Insurance Notes.

THE LONDON ASSURANCE.

The London Assurance announces that Mr. A. G. Hemming, the actuary and manager of the life department, will retire on 25th September next, after nearly thirty-two years' service, and will be succeeded by Mr. A. G. Paton, at present assistant actuary.

Mr. N. Miller has been appointed assistant actuary in place of Mr. J. N. Lewis, who will also retire on the same date. Mr. H. Peaty, at present chief life inspector, will become assistant manager of the life department.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

			GROUP I.	
	EMERGENCY	APPEAL COURT	Mr. JUSTICE EVE.	Mr. JUSTICE MAUGHAM.
DATE.	ROTA.	No. 1.	Witness. Part II.	Witness. Part I.
M'nd'y June 15	Mr. Ritchie	Mr. Hicks Beach	Mr.*Andrews	Mr. Hicks Beach
Tuesday .. 16	Andrews	Blaker	*More	*Andrews
Wednesday 17	Jolly	More	*Hicks Beach	More
Thursday . 18	Hicks Beach	Ritchie	Andrews	*Hicks Beach
Friday 19	Blaker	Andrews	*More	Andrews
Saturday .. 20	More	Jolly	Hicks Beach	More
	GROUP I.		GROUP II.	
	Mr. JUSTICE BENNETT.	Mr. JUSTICE CLAUSON.	Mr. JUSTICE LUXMOORE.	Mr. JUSTICE FARWELL.
DATE.	Non-Witness.	Witness. Part I.	Non-Witness.	Witness. Part II.
M'nd'y June 15	Mr. More	Mr.*Ritchie	Mr. Jolly	Mr.*Blaker
Tuesday .. 16	Hicks Beach	Blaker	Ritchie	*Jolly
Wednesday 17	Andrews	*Jolly	Blaker	*Ritchie
Thursday . 18	More	Ritchie	Jolly	Blaker
Friday 19	Hicks Beach	*Blaker	Ritchie	Jolly
Saturday .. 20	Andrews	Jolly	Blaker	Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (14th May, 1930) 2½%. Next London Stock Exchange Settlement Thursday, 25th June, 1931.

	Middle Price 10 June 1931.	Flat Interest Yield.			Approximate Yield with redemption		
English Government Securities.		£	s.	d.	£	s.	d.
Consols 4% 1957 or after	95½	4	3	9	—		
Consols 2½%	60	4	3	4	—		
War Loan 5% 1929-47	103	4	17	1	—		
War Loan 4½% 1925-45	101½	4	8	8	4	7	8
Funding 4% Loan 1960-90	97	4	2	6	4	2	9
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	98½	4	1	3	4	2	1
Conversion 5% Loan 1944-64	107	4	13	6	4	11	10
Conversion 4½% Loan 1940-44	102½	4	7	10	4	5	0
Conversion 3½% Loan 1961	84½	4	2	10	—		
Local Loans 3% Stock 1912 or after	69½xd	4	6	4	—		
Bank Stock	275½	4	7	1	—		
India 4½% 1950-55	75	6	0	0	—		
India 3½%	55xd	6	7	3	—		
India 3%	47xd	6	7	8	—		
Sudan 4½% 1939-73	101	4	9	1	4	9	8
Sudan 4% 1974	92	4	7	0	4	8	0
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	88½	3	7	10	3	18	0
Colonial Securities.							
Canada 3% 1938	94xd	3	3	10	4	2	6
Cape of Good Hope 4% 1916-36	98	4	1	8	4	8	0
Cape of Good Hope 3½% 1929-49	85	4	2	4	4	14	6
Ceylon 5% 1960-70	103	4	17	1	4	16	6
*Commonwealth of Australia 5% 1945-75	69xd	7	4	11	7	6	0
Gold Coast 4½% 1956	99xd	4	10	11	4	11	0
Jamaica 4½% 1941-71	98	4	11	10	4	12	3
Natal 4% 1937	98	4	1	8	4	7	6
*New South Wales 4½% 1935-1945	50xd	9	0	0	9	5	0
*New South Wales 5% 1945-65	55	9	1	9	9	2	6
New Zealand 4½% 1945	84½	5	6	6	6	4	9
New Zealand 5% 1946	93½xd	5	6	11	5	12	6
Nigeria 5% 1950-60	104	4	16	2	4	14	2
*Queensland 5% 1940-60	55	9	1	9	9	3	6
South Africa 5% 1945-75	102xd	4	18	0	4	17	6
*South Australia 5% 1945-75	65xd	7	13	10	7	15	0
*Tasmania 5% 1945-75	67	7	9	3	7	10	2
*Victoria 5% 1945-75	63xd	7	18	9	7	19	6
*West Australia 5% 1945-75	60	7	7	1	7	8	0
Corporation Stocks.							
Birmingham 3% on or after 1947 or at option of Corporation	66	4	10	11	—		
Birmingham 5% 1946-56	106	4	14	4	4	12	3
Cardiff 5% 1945-65	104	4	16	2	4	14	6
Croydon 3% 1940-60	76	3	18	11	4	10	0
Hastings 5% 1947-67	104	4	16	2	4	15	6
Hull 3½% 1925-55	83	4	4	4	—		
Liverpool 3½% Redeemable by agreement with holders or by purchase	78xd	4	9	9	—		
London City 2½% Consolidated Stock after 1920 at option of Corporation	58	4	6	2	—		
London City 3% Consolidated Stock after 1920 at option of Corporation	69	4	6	11	—		
Metropolitan Water Board 3% "A" 1963-2003	69	4	6	11	—		
Do. do. 3% "B" 1934-2003	71	4	4	6	—		
Middlesex C.C. 3½% 1927-47	90	3	17	9	4	12	0
Newcastle 3½% Irredeemable	76	4	12	1	—		
Nottingham 3% Irredeemable	68	4	9	7	—		
Stockton 5% 1946-56	104	4	16	2	4	15	6
Wolverhampton 5% 1946-56	104	4	16	2	4	14	6
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	85	4	14	2	—		
Gt. Western Railway 5% Rent Charge	100½	4	19	6	—		
Gt. Western Rly. 5% Preference	80	6	5	0	—		
L. & N.E. Rly. 4% Debenture	75½	5	6	0	—		
L. & N.E. Rly. 4% 1st Guaranteed	66½	6	0	4	—		
L. & N.E. Rly. 4% 1st Preference	42	9	10	6	—		
L. Mid. & Scot. Rly. 4% Debenture	79	5	1	3	—		
L. Mid. & Scot. Rly. 4% Guaranteed	68	5	17	8	—		
L. Mid. & Scot. Rly. 4% Preference	43	9	6	3	—		
Southern Railway 4% Debenture	84½	4	14	8	—		
Southern Railway 5% Guaranteed	97½	5	2	7	—		
Southern Railway 5% Preference	80	6	5	0	—		

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.

AN EXPERIENCED unadmitted Managing Clerk with good all-round knowledge of conveyancing, probate, trust and company work, desires engagement and is capable of acting without supervision. West End of London preferred.—Write Box 662, Solicitors' Journal, 29, Breams-buildings, E.C.4.

EX-OFFICERS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion and the name of this paper.

EX-ARMY Officer (mentioned despatches) seeks domestic posts for self and wife on residential staff. Wife good cook and housekeeper; self handyman, business trained. Sound references. 13023

EX-OFFICER, 37, would represent sound business firm in Brighton and Hove. Local resident. Dis. 379

EX-CAVALRY Officer, age 38, 5 years' practical experience general farming; two years business "Diploma salesmanship," wants position on estate where above knowledge can be applied. 12910

MILLINERY Traveller, sound connection London, West End stores and suburbs; disengaged; age 31, tall, smart. 9484

EX-TRANSPORT Officer, age 40, having to relinquish civil engineering career owing to war service disability, requires post in transport administrative organisation (civil and military experience home and abroad), or secretaryship with sports club (yachting and boating included). Dis. 334

EX-OFFICER, B.Sc., A.I.C., excellent testimonials, distinguished academic career, double scholar and medallist of London University, having completed a research for a government department, desires post as a research chemist, or in an administrative capacity. Dis. 376

CONFIDENTIAL SECRETARY with travel. Public School and University, ex-officer, tall, used to responsibility, wide experience business, press and publicity, interviewing, etc., desires post; excellent references.—Box 762, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ARTICLED CLERKS, &c.

VACANCY occurs for Articled Pupil with old-established firm of estate agents, auctioneers and surveyors in West End; premium required.—Write Box 763, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred. Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

SOLICITORS, General Practice and Clerks to local and public authorities in North Wales have vacancy for articled clerk Personal supervision. Premium required.—Box 735, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ESTATE Agents have vacancy in S.W. District Office for articled pupil. Premium £200 returnable in moderate salary.—Write Box 764, Solicitors' Journal, 29, Breams-buildings, E.C.4.

PRACTICES AND PARTNERSHIPS.

SOLICITOR, 37, Oxford Graduate, C.O., of wide experience in conveyancing, company, trust and family business, seeks partnership yielding £1,000 to £2,000 per annum net in well-established firm in Liverpool.—Box 770, Solicitors' Journal, 29, Breams-buildings, E.C.4

INCORPORATED Accountant (young) with several years' special experience abroad with oil company desires partnership in established practice dealing with similar audits.—C. W. Nourse, F.C.R.A., Consultant, 91A, St. Peter's-street, Derby.

ACTIVE Junior Partner required in City of London in an old-established and well-known practice in company work, foreign and international business and general law business; representatives throughout the world; further and full information as to the business will be given in an interview.—Apply in first instance by letter addressed to "Z." Box 766, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (W.C. district), with moderate good class conveyancing and general practice offers junior partnership to young solicitor. Share to commence about £350 to £500 per annum. State experience and capital available.—Box 761, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (Piccadilly district), with moderate good-class conveyancing and general family practice, desires to amalgamate with larger firm, or would take in junior partner having sound general practice with good prospects of expansion.—Box 751, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor, admitted 1930, desires Junior Partnership in general practice after short preliminary clerkship. Experienced in conveyancing, probate and general country practice, including some advocacy. Capital available.—Box 737, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR (31), formerly a member of the Bar, desires to purchase partnership in well-established firm in London or Southern Counties; thorough general experience in London and provinces; capital available.—Box 686, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SMALL General Practice with possibilities (within 30 miles of Manchester) for sale; reasonable offer accepted as immediate sale essential.—Apply Box 638, Solicitors' Journal, 29, Breams-buildings, E.C.4.

OFFICES

SOLICITORS' Offices in John-street, Bedford-row. Whole of ground floor comprising two large rooms and one small—also storage accommodation. On second floor—two front rooms.—Box 742, Solicitors' Journal, 29, Breams-buildings, E.C.4.

INVESTMENTS.

WANTED.—Advertiser desirous of changing Solicitors would like to hear from reputable firm who have floating fund of £10,000 to £15,000 for property deals; remuneration fees average about £600 to £700 per annum; further details at interview.—A.B., "Lornestra," Cliftonville, Margate.

WANTED.—A parcel of Freehold, Leasehold, or peppercorn ground rents with early reversion for a fund of £6,000; district no objection.—S.C., 181, Edgware-road, N.W.

LAW BOOKS.

FOR SALE. — Legal Library of deceased solicitor.—List on application to W. Rackwood Cocks, Solicitor, Exeter.

FOR SALE.—"The Solicitors' Journal," Vols. 68 to 73, unbound. What offers?—Box 650, Solicitors' Journal, 29, Breams-buildings, E.C.4.

FOR SALE.—"The Solicitors' Journal," Vols. 65 to 73, cloth bound, perfect condition. What offers?—Box 589, Solicitors' Journal, 29 Breams-buildings, E.C.4.

NOTICE.

The business of the late Mr.

R. P. ATTENBOROUGH,

of 62, SHAFTESBURY AVENUE, has been transferred to Mr.

T. M. SUTTON,

of 156, VICTORIA STREET, opposite the UNDERGROUND RAILWAY, VICTORIA, where all business will receive prompt attention.

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(especially early English and Colonial).

Please send particulars to Mr. MOULTON, 5, PARK HILL, RICHMOND, SURREY.

INFORMATION REQUIRED.

2s. per line.

WILL any Relatives of the late ALEXANDER NESBITT, who died 21st June, 1886, also of his wife, CECILIA NESBITT, deceased 6th November, 1900, and who are buried in Maresfield Churchyard, kindly COMMUNICATE with William Clifford Dodkins, of 1, London Wall-buildings, London, E.C.2, concerning the Memorial erected to the former at Fairwarp Church, Uckfield, Sussex?

BURTON.—The Kin of HARRIETT LOUISA BURTON, Widow, late of 1, Holly Hedge-terrace, Lewisham, Kent, who died at Lewisham on 20th January, 1931, are requested to APPLY to the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1. (Estate about £600).

RENDLE, JOHN EDGCUMBE, late of the Clarendon Hotel, East-street, Brighton, in the County of Sussex, and 85, Norroy-road, Putney, S.W.15 (who died at 85, Norroy-road, Putney, S.W.15, in 1909).—WILL any PERSON able to give INFORMATION as to the DEATH or present WHEREABOUTS of ALICE MAUD MARY RENDLE, the Widow of the above-named, late of 85, Norroy-road, Putney, S.W.15, or of her Executors or next-of-kin, please COMMUNICATE with Mr. F. W. TURNER, c/o Messrs. Carpenter Arnold and Turner, of Midland Bank-chambers, North-street, Brighton, Sussex.

PENDRY.—The Kin of FRANCES MARY PENDRY, Widow, late of 34, Wellington-street, Slough, Buckinghamshire, who died in Buckinghamshire on 8th March, 1931, are requested to APPLY to the TREASURY SOLICITOR (B.V.), Storey's-gate, London, S.W.1. (Estate about £250.)

RE ROSA WILSON, deceased.—The NEXT-OF-KIN of ROSA WILSON, late of 14, Newport-road, Leyton, Essex, widow, or any person who can give information as to the said next-of-kin, are requested to COMMUNICATE with Messrs. G. Houghton & Son, of 133, Moorgate, London, E.C.2, solicitors for the executor of the will of the said Rosa Wilson, dated 19th May, 1931. Note.—The said Rosa Wilson's maiden name was Butter, and she was married three times, her married names being Gruit, Parsley, and Wilson.

IN the Estate of ELIZABETH HARDCASTLE, deceased. Take notice that the NEXT-OF-KIN of the above-named deceased, who died on the 20th February, 1897, at 11, Clyde-street, Redcliffe-gardens, in the County of Middlesex, widow of the Reverend Philip Hardcastle, of Milton-street, Dorset-square, London, who died on the 12th February, 1864, are requested to COMMUNICATE with us, the undersigned, in writing, stating their relationship without delay.—Wingfields, Halse & Trustram, 61, Cheapside, London, E.C.2, Solicitors.

IN the Estate of MARTHA WAILES HARDCASTLE, deceased. Take notice that the NEXT-OF-KIN of the above-named deceased, who died on the 26th April, 1926, at 11, Clyde-street, South Kensington, in the County of Middlesex, spinster, daughter of Elizabeth Hardcastle, widow, who died on the 20th February, 1897, at 11, Clyde-street aforesaid, are requested to COMMUNICATE with us, the undersigned, in writing, stating their relationship, without delay.—Wingfields, Halse and Trustram, 61, Cheapside, E.C.2, Solicitors.

IN the Estate of ELIZA MARY HARDCASTLE, deceased. Take notice that the NEXT-OF-KIN of the above-named deceased, who died on the 16th January, 1930, at 11, Clyde-street, South Kensington, in the County of Middlesex, spinster, daughter of Elizabeth Hardcastle, who died on the 20th February, 1897, at 11, Clyde-street, South Kensington aforesaid, are requested to COMMUNICATE with us, the undersigned, in writing, stating their relationship, without delay.—Wingfields, Halse and Trustram, 61, Cheapside, London, E.C.2, Solicitors.

MISCELLANEOUS.

FREEHOLD GROUND RENTS of BUSINESS PREMISES let to sound tenants URGENTLY WANTED for a fund of £65,000. Large or small lots considered. Full details invited.—Alaway, 20, Bloomsbury-square, W.C.

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PERIODICAL SALE No. 1181.

REVERSIONS, POLICY and GROUND RENTS, At the LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C.4, on THURSDAY NEXT, 18th JUNE, at 2.30, in Lots:

ABSOLUTE REVERSION to about £12,000 on decease of life 61.—Solicitor, M. Albert Jacobs, Esq., 73-4, Jermyn-street, S.W.1.

ABSOLUTE REVERSION life 77, to about £7,000.—Solicitors, Messrs. Lindus & Hortin, 5, Albemarle-street, W.1.

ABSOLUTE REVERSION on decease of life 27 to £10,456.—Solicitors, Messrs. Grover & Mills, 27, Queen Victoria-street, E.C.4.

ABSOLUTE REVERSION on decease of life 63 to one-half of about £38,400.—Solicitors, Messrs. Boote, Dutton & Whitaker, 12-18, Booth-street, Manchester.

ABSOLUTE REVERSION to £1,264 Wolverhampton 3½ per cent. Stock on decease of lives 73, 70 and 68.—Solicitors, Messrs. Hooper & Wollen, Carlton House, Torquay.

POLICY OF ASSURANCE, £1,700, with profits, Gresham Life Assurance Society, life 68, premium £63 3s. 8d.—Solicitors, Messrs. Shirley Woolmer & Co., Temple-chambers, Temple-avenue, E.C.4.

FREEHOLD GROUND RENT.

£145 14s. per annum, arising out of 9–41 (odd) and 34-44 (even), Creeland-grove, and Elm Villa, Catford, leased until December 15th, 1963. Rack rents estimated at £950 per annum.—Solicitors, Messrs. Hatten, Winnett and Hatten, Court House, Gravesend.

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PERIODICAL PROPERTY AUCTIONS.

H. E. FOSTER & CRANFIELD

beg to announce that their PROPERTY AUCTIONS will be held at THE LONDON AUCTION MART, 155, Queen Victoria-street, E.C.4.

Vendors, solicitors and trustees having properties for sale are respectfully invited to communicate with the Auctioneers, at their Offices, 6, Poultry, London, E.C.2. Telegrams: "Invariably, Stock, London." Tel. No. City 1296 (3 lines).

DONALDSON & SONS, F.A.I.,

Will SELL, at the LONDON AUCTION MART, E.C., on WEDNESDAY, 24th JUNE, at 2.30 p.m.:

FREEHOLD PREMISES with VACANT POSSESSION.

WHITECHAPEL.—18, 19, Grace's Alley, Wellclose-square (suit manuf.). Vac. poss. G.-floor shops and basement.

By Order of the Metropolitan Hospital.

HAGGERSTON SOUP KITCHEN, 70, Shap-street, two-floor building with concrete basement, area 958 feet.

FREEHOLD GROUND RENTS.

BATTERSEA PARK.—£6 per ann., secured on 51, 53, and 55, Savona-street. Rev. in 13 years.

ISLINGTON.—£58 per ann., secured on 11 houses, Albert-street. Rev. in 16 years.

FREEHOLD AND LEASEHOLD INVESTMENTS.

DALSTON.—25, 33, Sigdon-rd.; 2, 4, Trafalgar-rd.; 1 and 5, Graham-rd.; 50, Malvern-rd.; 30, Gayhurst-rd.; 88, Albert-rd.; 25, Wayland-ave.; 16 to 32, Suffolk-rd.

STOKE NEWINGTON.—21 and 23, Hayling-rd.; 10, Carysfort-rd.; 163, Evering-rd.

HOLLOWAY.—27 to 39, Queensland-rd.

CAMDEN TOWN.—217, Arlington-rd.

POPLAR.—23 to 28, Hale-street.

FULHAM.—36, Hannell-road.

Auctioneers' Offices, 562, Kingsland-road, Dalston Junction. Tel. Clissold 2330 (3 lines).

By Instructions of the Receiver for the Mortgagees and Debenture Holders,

Re BURNHAM PRESERVING CO., Ltd.
BURNHAM-ON-CROUCH, ESSEX.

Messrs.

JOHN SULLEY & SONS, F.A.I.

will offer for SALE by AUCTION on the PREMISES, on TUESDAY, 23rd June, 1931, at twelve o'clock prompt, the FREEHOLD PROPERTIES, viz.:

FACTORY and LAND
situated in
EASTERN-ROAD, BURNHAM-ON-CROUCH,

Having an area of about ¾ acre, and frontage to Eastern-road of about 85 feet. The single storey factory having a floor space of about 8,000 square feet.

This includes Boiling and Packing Rooms, Boiler House, Offices, Brick-built Garage, Pig Sties, and Outhouses. There is space for Railway Siding. SUITABLE FOR ANY TRADE.

WITH VACANT POSSESSION on COMPLETION.

Also the FREEHOLD BUNGALOW, known as GREENFIELD, No. 8 EASTERN-ROAD, having a frontage of about 45ft., and a depth of about 90ft. Let at 12s. per week inclusive. With Vacant Possession on completion (if required).

Particulars and Conditions of Sale may be had of the Receiver, P. Leask, Esq., M.A., C.A. (Messrs. Leask, Clemens and Co., Chartered Accountants), 27-28, Finsbury-square, E.C.2, of the Solicitors, Messrs. Watkins, Phipps and Brown, 3, Coleman-street, E.C.2, and of the Auctioneers, 46, Cannon-street, London, E.C.4.

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The Accommodation comprises:
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Service Lift. Hot Water System.

LEASE 36 YEARS UNEXPIRED.
GROUND RENT £100 PER ANNUM.

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KNIGHT, FRANK & RUTLEY

in the HANOVER-SQUARE ESTATE ROOM on THURSDAY, 25th JUNE, 1931, at 2.30 p.m. (unless previously sold privately).

Solicitor: HORACE DAVEY, Esq., 47, Parliament-street, Westminster, S.W.1.

Auctioneers: Messrs. KNIGHT, FRANK & RUTLEY, 20, Hanover-square, W.1.

Printed by The Solicitors' Law Stationery Society, Ltd., at "Oyez" House, Fetter Lane, London, E.C.4, and Published at 29, Breams Buildings, E.C.4 ('Phone: Holborn 1853). Agents—The United States and Canada: The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, June 13th, 1931